



FEDERAL ELECTION COMMISSION
Washington, DC 20463

MEMORANDUM

TO: The Commission
Staff Director
General Counsel
Press Office
Public Disclosure

FROM: Commission Secretary 

DATE: June 4, 2012

SUBJECT: Comments on Draft AO 2012-17
(Red Blue T LLC, Armour Media, Inc.,
and m-Qube, Inc.)

Transmitted herewith is a late submitted comment from J. Adam Skaggs and David Earley, counsel, on behalf of the Brennan Center for Justice.

Draft Advisory Opinion 2012-17 is on the June 7, 2012 open meeting agenda.

Attachment

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FOR JUSTICE**

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June 4, 2012

Shawn Woodhead Werth
Secretary
Federal Election Commission
999 E. Street N.W.
Washington, DC 20463

Re: AO 2012-17 (Red Blue T, Armour Media, and m-Quib) Draft B

Dear Ms. Werth:

We write on behalf of the Brennan Center for Justice at NYU School of Law to urge the Commission to adopt Draft B of Advisory Opinion 2012-17, which approves of the use of text messaging to raise funds for political committees.

Political fundraising through the use of text messaging represents a new way for candidates to engage with voters and expand participation in our nation's elections. The already widespread and easy use of text messaging makes it a valuable tool for our democratic processes.

New technologies that allow candidates to engage with voters electronically are already transforming our elections, and developments with new social media technology promise to accelerate these trends. A 2008 report from the Campaign Finance Institute, American Enterprise Institute, and Brookings Institution found that 28% of Internet users "felt more personally connected" with candidates through their online activities and 22% said they otherwise "would not have been involved without the Internet."¹ New digital technology has made it easier for the public to both become better informed about candidates and become directly involved, be it through making monetary contributions, volunteering their time, telling their friends about a candidate they support, or voting on election day. Modern campaigns have embraced this technology enthusiastically, and have made the use of text messaging a central part of their outreach to supporters and potential voters.

Campaigns' use of text messaging is no surprise: research demonstrates that 83% of Americans use mobile phones, and 73% of these users utilize text messaging.² But while

¹ ANTHONY J. CORRAJO ET AL., REFORM IN AN AGE OF NETWORKED CAMPAIGNS: HOW TO FOSTER CITIZEN PARTICIPATION THROUGH SMALL DONORS AND VOLUNTEERS 10 (2010).

² AARON SMITH, PEW INTERNET & AM. LIFE PROJECT, AMERICANS AND TEXT MESSAGING 2 (2011), available at <http://pewinternet.org/~media/Files/Reports/2011/Americans%20and%20Text%20Messaging.pdf>.

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this ubiquitous technology is currently used by candidates to engage huge numbers of Americans with their campaigns, text messaging has not yet been tapped as a way to allow Americans to engage as small donors. Allowing political fundraising through text messaging would provide a new and simple way for millions of citizens to become more deeply involved in our elections. The use of text messaging to raise funds has already been hugely successful in other areas. For example, in the aftermath of the tragic 2010 Haiti earthquake, U.S. cell phone users enthusiastically responded by donating via text over \$22 million to the American Red Cross in just one week.³ One in ten Americans have given to charity via text.⁴

Simply put, donating via text is already a regular part of American culture. Leveraging this means of encouraging widespread participation by *small* donors will have a salutary effect on democracy at a time when huge majorities of Americans believe that *large* donors to candidates wield excessive influence over elected officials.⁵

Small political donations produce a wide range of benefits. Small donors feel a greater sense of commitment to the political process and their candidates than those who do not give. Candidates are more likely to reach out to and engage with ordinary voters if they are capable of easily giving to the campaign. Small donations free candidates from the corrupting influence that can result from large contributions from special interest groups.

Political donations via text message have a significant potential to strengthen our government and our democratic process. The technology already exists; the Commission need only flip the switch. We strongly urge the Commission to adopt Draft B of Advisory Opinion 2012-17.

Respectfully submitted,



J. Adam Skaggs
Senior Counsel



David Earley
Counsel

cc: Anthony Herman, FEC General Counsel

³ Thomas Heath, *U.S. Cellphone Users Donate \$22 Million to Haiti Earthquake Relief via Text*, WASH. POST (Jan. 19, 2010), <http://www.washingtonpost.com/wp-dyn/content/article/2010/01/18/AR2010011803792.html>

⁴ AARON SMITH, PEW INTERNET & AM. LIFE PROJECT, *REAL TIME CHARITABLE GIVING 2* (2012), available at <http://www.pewinternet.org/~media/Files/Reports/2012/Real%20Time%20Charitable%20Giving.pdf>.

⁵ See, e.g., *CNN Poll: Two-thirds Say Elections Are usually for Sale*, CNN (June 9, 2011), <http://politicalticker.blogs.cnn.com/2011/06/09/cnn-poll-two-thirds-say-elections-are-usually-for-sale/> (86% of Americans believe elected officials are mostly influenced by campaign contributors).