



FEDERAL ELECTION COMMISSION
Washington, DC 20463

MEMORANDUM

TO: The Commission

FROM: Office of the Commission Secretary *LC*

DATE: June 16, 2020

SUBJECT: AO 2019-18 (IDF International Technologies) Draft A

Attached is a comment received from Adav Noti on behalf of Campaign Legal Center.

Attachment

RECEIVED

By Office of the Commission Secretary at 1:22 pm, Jun 16, 2020



June 16, 2020

Joanna S. Waldstreicher, Esq.
Federal Election Commission
1050 First Street NE
Washington, DC 20463

Re: Advisory Opinion 2019-18 (IDF), Draft A

Dear Ms. Waldstreicher:

Campaign Legal Center respectfully submits these comments regarding Draft A of Advisory Opinion 2019-18 (IDF).

In analyzing whether the requestor's ads are contributions or expenditures, Draft A responds that they are not because:

IDF states that it advertises OnePoliticalPlaza solely for the purpose of attracting new users, and not for the purpose of influencing any election. This is supported by the fact that IDF's ads do not espouse any public positions on any candidate or political party or contain express advocacy. Nor does IDF have any interaction with any candidate or political party, or make any contributions to any political committee. Accordingly, its payments do not constitute contributions to any political committee or expenditures.

AOR 2019-18 (IDF), Draft A at 4 (internal citations omitted).

The first sentence of this proposed response cites the requestor's "state[d] . . . purpose" for its spending. But whether advertising by an entity other than a political committee is an "expenditure" is determined objectively by the content of the advertising, not by the professed subjective intent of the spender. *See Buckley v. Valeo*, 424 U.S. 1, 78-80 (1976); *cf. FEC v. Wis. Right to Life, Inc.*, 551 U.S. 449, 466-68 (2007). We therefore recommend omitting the sentence of Draft A that cites the requestor's characterization of the purpose of its spending.

Draft A also invokes the fact that the requestor does not “make any contributions to any political committee” as a basis for finding that the requestor’s ads are not “contributions to any political committee.” We recommend this circular analysis be removed, lest it generate confusion in future matters regarding spending by persons other than political committees.

Thank you for considering our comments.

Respectfully submitted,

/s/ Adav Noti

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