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*By Office of the Commission Secretary at 8:02 am, Mar 17, 2021*

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Jeremy Holtzman  
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March 16, 2021

Federal Election Commission  
1050 First Street, NE  
Washington, DC 20463

Re: Request for Advisory Opinion

Dear Commissioners:

Pursuant to 52 U.S.C. § 30108, Tally Up, LLC ("Tally Up"), a Vermont for profit limited liability company, requests an advisory opinion on the permissibility of Tally Up's proposed business plan under the Federal Campaign Election Act of 1971 (the "Act").

## **Background**

Tally Up is a data analytics company that provides political candidates information to run a more successful campaign. The type of information Tally Up provides includes which voters are likely to vote, tools to build segments of voters, analysis on messaging trends that will resonate with voters, and social media analytics. All of these reports are either available for our clients through our website or through emailed reports at a usual and normal charge. Tally Up is designed to help candidates run more efficient campaigns by making data-driven decisions.

One of our key features is the ability for our candidates to create segments of voters they would like to target. Segments are lists of voters that are defined by specific variables. For example, one segment could be registered Democrats age 25-35 who live in New York City. Candidates can export lists of these voters which includes contact information Tally Up already has from other sources. Then our candidates can reach out to these voters through various channels such as calling, texting, or by mail in order to gather support for their campaign which could come in the form of votes, donations, or volunteer hours. Candidates can create as many segments as they like. There is no minimum number of voters needed for a segment.

To improve the voter segments, Tally Up plans to create a Voter Segment Score based on the aggregated individual contributions of voters within the segment and the aggregated individual contributions of other similar voters. Similar voters will be determined based on Tally Up's discretion. A Voter Segment Score is intended to reflect the segment's support for a particular political party and that party's candidates. The voter segment scores can range from 0-100. Tally Up will not share the number of voters in a segment that made contributions, the total contribution amount from voters in a segment, or any information about the contributions of any

individual voter. These voter segments are included in the suite of tools Tally Up sells to candidates or other parties who are managing political campaigns.

Here is a simplified example of the scoring for illustrative purposes. It's not exactly how the scoring works, but it shows that the voter segment scores don't give away any information about which voters contributed or how much a voter contributed. For example, let's say a client created two voter segments - Segment A and Segment B. Segment A's voters and other voters similar to Segment A have contributed \$250 per person, while Segment B's voters and other voters similar to Segment B have contributed \$150 per person. Based on this information, Segment A would receive a score of 62.5, while Segment B would be scored 37.5. These scores clearly do not indicate the contribution amount of any individual donor.

We have also designed two mechanisms to ensure there is no way for candidates to trace donations to individual donors. First, voter segments will not receive a Voter Segment Score if there are less than 100 individuals in the segment. Additionally, if any two voter segments have a difference of less than 100 voters, they will receive the same score regardless of when the reports are generated.

## **Questions**

1. May Tally Up aggregate individual contributions based on geographic and demographic fields such as zip code, city, age and gender to generate the Voter Segment Scores it will provide to candidates?

## **Discussion**

Tally Up should be able to aggregate individual contributions based on geographical and demographic fields. In Advisory Opinion 2017-08 (Point Bridge Capital), the Commission ruled that aggregated data and data that does not contain individual contributors' contact information do not implicate privacy concerns. Point Bridge Capital proposed aggregating individual contributions based on their employer in order to create and sell an index based on political leaning. The Commission also cited the Crowdpac ruling in AO 2014-07. Similarly to Point Bridge Capital, Tally Up should be able to aggregate individual contributions based on other fields such as geographies and demographics.

Further in the Crowdpac ruling, the Commission ruled that Crowdpac may also use data derived from Commission reports in its algorithm, provided that doing so does not entail disclosing individual contributors' contact information. Permitting analysis of Commission data without public identification of contact information for individual contributors accomplishes "FECA's broader aim of full disclosure" and "further[s] first amendment values" in a manner that "protect[s] the privacy of campaign contributors." Similarly, Tally Up will not disclose any information about the contact information of individual contributors. The individual contributor data will only be used in aggregate to create scores for an aggregated group of voters based on

geographic or demographic information. None of the contact information from these voters will be based on individual contribution data.

Sincerely,

Jeremy Holtzman  
Tally Up, LLC

Voter Id	Voter Name	Age	Gender	Party	Zip Code	Segment	Voter Segment Score
1	Jane A		22 F	Democrat	10001	A	57
2	Jane B		23 F	Democrat	10001	A	57
3	Jane C		87 F	Unaffiliated	10001	A	57
...	...	...	...	...	...	... A	57
99	John A		67 M	Democrat	10001	A	57
100	John B		53 M	Democrat	10001	A	57
101	Alex A		44 M	Republican	10001	B	43
102	Alex B		42 M	Republican	10002	B	43
103	Alex C		19 M	Republican	10002	B	43
...	...	...	...	...	...	... B	43
199	Alexa A		55 F	Republican	10001	B	43
200	Alexa B		25 F	Republican	10001	B	43
201	Bob A		23 M	Democrat	10001	C	None
202	Bob B		24 M	Democrat	10001	C	None
203	Bob C		25 M	Democrat	10001	C	None