



FEDERAL ELECTION COMMISSION
 WASHINGTON, D.C. 20463

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of)
)
 Fox Corporation, *et al.*) MURs 8117 and 8118
)

**STATEMENT OF REASONS OF VICE CHAIR ELLEN L. WEINTRAUB
 AND COMMISSIONERS SHANA M. BROUSSARD AND DARA LINDENBAUM**

On September 27, 2020, over 26.4 million viewers tuned in to Fox to watch America’s No. 1 Show – the NFL Game of the Week.¹ Three days before the game, Fox’s chairman, Keith Rupert Murdoch, sent an email to Jared Kushner, Donald Trump’s senior advisor who was overseeing the Trump campaign, informing Kushner that the Biden campaign ads were “better creatively” than Trump’s.² The next day, Murdoch sent the Biden advertisement that would be airing during the football game to Kushner. In a sworn deposition, Murdoch explained that he sent the Biden advertisement to Kushner because he “was trying to help Mr. Kushner. He’s a friend of mine.”³ Murdoch also agreed that he was “trying to help the Trump campaign by giving him a preview of the Biden campaign’s ads before it was public.”⁴

Corporations, such as Fox, are prohibited from making contributions (including “anything of value”) to authorized political committees.⁵ The Federal Election Commission’s nonpartisan Office of General Counsel (“OGC”) concluded that Fox provided and Make America Great Again PAC (f/k/a Donald J. Trump for President, Inc.) accepted a thing of value because “Murdoch’s emails to Kushner contained material information about Biden’s campaign strategy that was not public – that the Biden campaign was airing this particular ad, to a particular and large audience, during a particular broadcast two days in the future.”⁶ While a similar ad may have already been made public, that does not negate the

¹ *America’s Game of the Week Reigns as No. 1 Show in Television*, FOX SPORTS (Sept. 27, 2022), <https://www.foxsports.com/presspass/blog/2022/09/27/americas-game-of-the-week-reigns-as-no-1-show-in-television/> (noting that 26.4 million viewers watched Fox’s America’s Game of the Week on Sunday, September 27, 2020, and that the show is “TV’s No. 1 Show for the last 13 years”).

² First Gen. Counsel’s Rpt. (“FGCR”) at 5.

³ FGCR at 6 (citing Murdoch Deposition).

⁴ FGCR at 7 (citing Murdoch Deposition).

⁵ 52 U.S.C. §§ 30118(a), 30101(8)(A)(i).

⁶ FGCR at 15; *see also* Statement of Commissioner Ellen Weintraub on The Law of a Thing of Value, (Oct. 2019), <https://www.fec.gov/resources/cms-content/documents/2019-10-ELW-the-law-of-a-thing-of-value.pdf>.

MUR 8117 and 8118 (Fox Corporation, *et al.*)

Statement of Vice Chair Ellen L. Weintraub and Commissioners Shana M. Broussard and Dara Lindenbaum

value of the information that was conveyed. As OGC concluded, it is not the advertisement itself that was the thing of value, but rather the material information about the Biden's non-public campaign strategy to air a particular ad during a particular broadcast. Furthermore, the value of such information cannot be considered *de minimis* by looking at the value relative to the exponential growth of political spending in a presidential race. Such a test would render virtually anything *de minimis*.

This is not a hard case. The facts are not in dispute. An investigation was not required. Any candidate would find it valuable to know their opponent's advertising strategy. Knowing that a particular ad would be placed during a highly viewed football game was a thing of value given by Fox Corporation to the Trump campaign. Therefore, we voted to find reason to believe that a violation occurred and to enter into pre-probable cause conciliation.⁷

11/12/2024

Date

Ellen L. Weintraub
Vice Chair

11/12/2024

Date

Shana M. Broussard
Commissioner

11/12/2024

Date

Dara Lindenbaum
Commissioner

⁷ Certification ¶ 1 (Oct. 8, 2024) (A motion to find reason to believe that Fox Corporation made and Make America Great Again PAC accepted and failed to report a prohibited corporate contribution failed 3-3, with Vice Chair Weintraub and Commissioners Broussard and Lindenbaum voting in favor and Chairman Cooksey and Commissioners Dickerson and Trainor opposed).