

**AGENDA DOCUMENT NO. 11-38-B**



FEDERAL ELECTION COMMISSION  
WASHINGTON, D.C. 20463

2011 JUN 29 P 7 19  
U.S. FEDERAL  
SECRETARIAT

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MEMORANDUM

TO: The Commission

FROM: Cynthia L. Bauerly *CB*  
Chair

Caroline C. Hunter *CLH*  
Vice Chair

Matthew S. Petersen *MSP*  
Commissioner

Steven T. Walther *BW HSB*  
Commissioner

Ellen L. Weintraub *ELW by CNR*  
Commissioner

DATE: June 29, 2011

RE: Draft AO 2011-11 (Colbert)

**AGENDA ITEM**

For Meeting of 6-30-11

**SUBMITTED LATE**

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We intend to propose the following amendments to Draft A, which is contained in Agenda Document No. 11-38.

On page 8, replace the paragraph from lines 4 – 13 with:

If the Committee is discussed on the Show, airtime and related costs incurred by Viacom for its coverage of the Committee on the Show will be exempt from reporting requirements under the press exemption. Costs incurred by Viacom to produce independent expenditure advertisements aired solely on the Show will also be exempt from reporting requirements under the press exemption. If Viacom produces these independent expenditure advertisements for the Show and also provides these independent expenditure advertisements to the Committee to distribute outside of the Show (including airing as paid advertisements on other shows and networks or as content for the Committee's website), then the costs of these independent expenditure advertisements will be in-kind contributions by Viacom to the Committee and must be reported as such. If Viacom produces independent expenditure advertisements directly

for the Committee for distribution outside the show, the costs of these advertisements will also be reportable in-kind contributions by Viacom. Finally, any costs incurred by Viacom to administer the Committee will be reportable in-kind contributions.<sup>5</sup>

On page 8, replace the content of footnote 5 with:

As indicated above, Mr. Colbert, who plans to establish the Committee, is and will remain principally responsible for the formulation of the Show's content. The Commission does not address how, if at all, the analysis would be different in the absence of this relationship.

Additionally, the Commission assumes for the purposes of this advisory opinion that all costs incurred by Hello Doggie to produce the Show or administer the Committee are attributable to Viacom. Therefore, the Commission need not determine whether Hello Doggie would be making in-kind contributions to the Committee.

On page 13, replace the sentence on lines 16 – 19 with:

The Commission concludes that Viacom would not be acting within its legitimate press function by providing independent expenditure advertisements to the Show and also providing the independent expenditure advertisements to the Committee, or providing independent expenditure advertisements produced directly for the Committee to distribute outside of the Show (including airing as paid advertisements on other shows and networks or as content for its website).

On page 14, replace the sentence on lines 11 – 12 with:

Thus, based on the facts of this request, independent expenditure advertisements provided to the Committee to distribute outside the show would be in-kind contributions to the Committee.<sup>7</sup>

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<sup>7</sup> See footnote 5 above.