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607 Fourteenth Street N.W.  
Washington, D.C. 20005-2011  
PHONE: 202.628.6600  
FAX: 202.434.1690  
www.perkinscoie.com

October 7, 2003

Lawrence M. Norton, Esq.  
General Counsel  
Federal Election Commission  
999 E Street, N.W.  
Washington, DC 20463

AOR 2004-6

Re: Meetup, Inc.

Dear Mr. Norton:

Pursuant to 2 U.S.C. § 437f (2003), this letter requests an advisory opinion from the Federal Election Commission on behalf of Meetup, Inc. Meetup, Inc. asks whether the Federal Election Campaign Act, as amended, 2 U.S.C. § 431 *et seq.* (2003), allows it to provide free, Web-based services to Federal candidates, political committees and their supporters on the same terms as to the public at large.

**FACTUAL DISCUSSION**

Meetup, Inc. is a for-profit corporation. Through its web site, Meetup.com, it provides an advanced technology platform and global network of local venues to help people organize gatherings in their communities around their own areas of interest. Meetup.com was inspired by books like Robert Putnam's *Bowling Alone*, which discusses the problem of preserving community in a technologically evolving society.

Like other commercial web-based platforms such as Yahoo Groups and Hotmail, Meetup.com provides an array of basic web-based services to the general public at no charge. Any individual over age 14 may sign up at Meetup.com. Upon accepting the terms of service, an individual may use Meetup.com's platform to arrange or attend gatherings in their community centered around various user-suggested topics.

Meetup.com presently lists more that 1,840 topics, each suggested by its users. The vast majority of these topics do not pertain to any Federal election. There are topics devoted to hobbies, popular entertainers, media programs and personalities,

Lawrence M. Norton, Esq.  
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pets, lifestyle choices, books and cars, to name just a few. A complete list of topics may be browsed at <http://www.meetup.com/browse/>.

Each topic has a "Meetup Day," generally occurring once a month at a fixed time worldwide. In each community, for each topic, users vote to choose a local venue where they will all meet at the appointed time. Venues typically include cafes, bars, restaurants and other public accommodations. Users typically volunteer to "host" the Meetups, making arrangements with the venues and posting signs to help users find one another. Meetup.com users bear all costs associated with these events. Meetup, Inc. does not supervise or arrange these events, other than to provide a platform for its users.

Meetup, Inc. derives its revenue from establishments that pay to be listed as possible Meetup venues. Also, it provides premium services to individuals and organizations who want more than the basic services made available to all for free. *See, e.g.,* <http://www.meetup.com/faq/plus/>. Meetup, Inc. does not discriminate among candidates or differing political viewpoints in any way, nor does it discriminate between political and non-political topics. However, its terms of service require users not to violate any law, statute or regulation in the course of their use. *See* <http://www.meetup.com/terms/>.

In recent months, Meetup.com has begun to list topics suggested by its users that pertain to Federal, state and local candidates for public office. Meetup.com now has topics pertaining to President Bush and to each of the major Democratic Presidential candidates. Meetup, Inc. seeks an advisory opinion to affirm that it may continue listing these topics, like hundreds of others, and serving their interested users, without violating the Act.

### **LEGAL DISCUSSION**

The Act defines a contribution to include anything of value provided by any person for the purpose of influencing any election for Federal office. *See* 2 U.S.C. § 431(8)(A). However, that definition extends only to services that are provided at less than the usual and normal charge. *See* 11 C.F.R. § 100.52(d)(1) (2003).

The Commission has frequently discussed when and how businesses may provide goods or services to candidates and their supporters at no or reduced charge.

Lawrence M. Norton, Esq.  
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Page 3

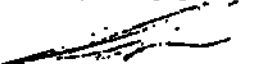
*See, e.g.,* Advisory Opinions 1999-17. Generally, the core question has been whether the business provided the goods or services on the same terms to nonpolitical customers.

The Commission thus advised President Bush's 2000 primary campaign that it could accept hyperlinks from web hosts who normally did not charge for them, without receiving contributions. *See id.* The Commission held this situation to be different from ones in which similarly situated nonpolitical entities were charged more. *See id.* The Commission also distinguished situations in which the services "might otherwise have required consideration," and yet were provided free for "promotional or good will purposes." *Id.* n.7.

There is no meaningful difference between the services provided here, and the uncompensated links approved by the Commission in Advisory Opinion 1999-17. Meetup.com does not propose to provide services to candidates or their supporters on any sort of favorable terms. It simply proposes to provide them on the same terms available to anyone else. It would be arbitrary to create a class of services available to the general public, and yet somehow expressly forbidden to Federal candidates and committees.

For these reasons, the Committee respectfully requests that the proposed transactions be allowed.

Very truly yours,



Marc E. Elias  
Brian G. Svoboda  
Counsel to Meetup, Inc.



**FEDERAL ELECTION COMMISSION**

Washington, DC 20463

October 21, 2003

Marc E. Elias, Esq.  
Brian G. Svoboda, Esq.  
Perkins Coie, LLP  
607 Fourteenth Street, NW  
Washington, DC 20005-2011

Dear Msrs. Elias and Svoboda;

This refers to your letter dated October 7, 2003, on behalf of Meetup, Inc. ("Meetup") concerning the application of the Federal Election Campaign Act of 1971, as amended ("the Act"), and Commission regulations to Meetup's references to Federal candidates in its Web-based event planning services.

You state that Meetup offers a commercial, Web-based platform for arranging local gatherings on more than 1,840 topics suggested by users. You indicate that some of these topics pertain to candidates for Federal office and/or Federal elections. You note that Meetup provides the basic service to the general public without charge, and that users typically "host" the "Meetups" and bear all the costs associated with each event. You state that Meetup derives its revenue from two sources: from establishments that pay to be listed as possible event venues, and from payment for "premium services to individuals and organizations." You request affirmation that Meetup may include Federal candidates in its list of event topics without violating the Act.

The Act authorizes the Commission to issue an advisory opinion request in response to a "complete written request" from any person about a specific transaction or activity by the requesting person. 2 U.S.C. 437f(a). The request must concern a specific transaction or activity that "the requesting person plans to undertake or is presently undertaking and intends to undertake in the future." 11 CFR 112.1(b). Such a request "shall include a complete description of all facts relevant to the specific transaction or activity with respect to which the request is made." 11 CFR 112.1(c). The Office of General Counsel shall determine if a request is incomplete or otherwise not qualified as an advisory opinion request. See 11 CFR 112.1(d).

In view of the above requirements, this Office will need further detail regarding the options set forth above. Specifically:

1. Is the scope of your question limited to the listing of event topics? If so, please clarify which sections or Web pages you consider to constitute the "listing of event topics."
2. Does Meetup provide, or intend to provide, any of the "premium services" referenced in your request, or any other service for pay, to any Federal candidates or their representatives? If so, please describe those premium services and how they differ from Meetup's services provided without charge to users.
3. With respect to Meetup's listing of event topics:
  - a) Please state whether Meetup normally lists events without charge; and
  - b) Please state whether Meetup ever accepts payment for the listing service and, if so, state those rates and their terms.
  - c) You state that the topics listed on Meetup's Web site are "suggested by its users." Does Meetup exercise discretion in accepting and listing topics suggested by its users? If so, what criteria are used in exercising this discretion?
4. You state that Meetup does not propose to provide services to candidates or their supporters on any sort of favorable terms. Please confirm that Meetup will not provide any premium or other service to a Federal candidate, authorized committee, or an agent of either, at a rate below the normal and usual charge for such service.
5. Please describe the free services, if any, that Meetup provides or intends to provide to Federal candidates, their authorized committees, or agents of either, that Meetup does not already provide to the general public without cost.
6. The front page of the Meetup Web site lists "Featured Meetups," such as "Dean in 2004 - Connect face-to-face with other supporters of 2004 Presidential candidate, Gov. Howard Dean. [sponsored]."
  - a) How are the "Featured Meetups" selected, and by whom?
  - b) Please explain what "sponsored" means in this context, state what costs, if any, are related to sponsorship, and state how these costs are determined and by whom they are paid.

If you have any questions about the advisory opinion process or this letter, please contact Richard Ewell, an attorney in this Office, at 202-694-1650.

Sincerely,

A handwritten signature in black ink that reads "Rosemary C. Smith". The signature is written in a cursive style with a large, stylized "S" at the end.

Rosemary C. Smith  
Acting Associate General Counsel

January 12, 2004

607 Fourteenth Street N.W.  
Washington, D.C. 20005-2011  
PHONE 202.628.6600  
FAX 202.434.7690  
www.perkinscoie.com

Rosemary C. Smith, Esq.  
Acting Associate General Counsel  
Federal Election Commission  
999 E Street, N.W.  
Washington, DC 20463

Re: Meetup.com

Dear Ms. Smith:

Through this letter, we write in response to your letter dated October 21, 2003. This letter supplements the advisory opinion request that we submitted on behalf of Meetup.com on October 7, 2003. You posed six questions pertaining to our request. The answers to which are presented below.

1. *Is the scope of your question limited to the listing of event topics? If so, please clarify which sections or Web pages you consider to constitute the "listing of event topics."*

The scope of our question was not limited to the listing of event topics. We seek Commission guidance with regard to the entire site at <http://www.meetup.com> as it relates to all the transactions detailed in our October 7 letter.

2. *Does Meetup provide, or intend to provide, any of the "premium services" referenced in your request, or any other service for pay, to any Federal candidates or their representatives? If so, please describe those premium services and how they differ from Meetup's services provided without charge to users.*

As part of its usual and normal business, Meetup sells entities the opportunity to "sponsor" Meetups on particular subjects. In exchange for a fee, Meetup will provide a sponsor with the opportunity to influence certain limited content on the Meetup web site. To the extent permitted by its privacy policy, and with explicit permission from each user, Meetup also provides the sponsor with data about those who indicate through the site that they will attend the sponsored Meetup. As the quotation in Question 6 below indicates, Meetup makes sponsorship opportunities available to

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federal candidates at normal and usual charges and on the same terms as it does to other entities.

3. *With respect to Meetup's listing of event topics:*

a) *Please state whether Meetup normally lists events without charge;*

Yes.

b) *Please state whether Meetup ever accepts payment for the listing service and, if so, state those rates and their terms.*

There is no charge for listing a topic on Meetup. As discussed above (response #2) Meetup does, as part of its usual and normal business, offer entities (including but not limited to political committees) access to additional services for a fee.

c) *You state that the topics listed on Meetup's Web site are "suggested by its users." Does Meetup exercise discretion in accepting and listing topics suggested by its users? If so, what criteria are used in exercising this discretion?*

As a matter of policy, Meetup lists as a topic each Presidential, Senate and House candidate. Meetup does not make contextual judgments in determining whether to list topics pertaining to candidates for Federal office.

4. *You state that Meetup does not propose to provide services to candidates or their supporters on any sort of favorable terms. Please confirm that Meetup will not provide any premium or other service to a Federal candidate, authorized committee, or an agent of either, at a rate below the normal and usual charge for such service.*

Meetup does not intend to provide any premium or other service to a Federal candidate, authorized committee, or an agent of either, at a rate below the normal and usual charge for such service.

5. *Please describe the free services, if any, that Meetup provides or intends to provide to Federal candidates, their authorized committees,*



Rosemary C. Smith, Esq.  
January 12, 2004  
Page 3

*or agents of either, that Meetup does not already provide to the general public without cost.*


All of the free services provided to candidates and their committees are provided to the general public also without cost.

6. *The front page of the Meetup Web site lists "Featured Meetups," such as "Dean in 2004 – Connect face-to-face with other supporters of 2004 Presidential candidate, Gov. Howard Dean. [sponsored]."*
- a) *How are the "Featured Meetups" selected, and by whom?*
  - b) *Please explain what "sponsored" means in this context, state what costs, if any, are related to sponsorship, and state how these costs are determined and by whom they are paid.*

See the response to question 2 above.

Please do not hesitate to let either of us know if you have any further questions concerning this request. Thank you for your attention to this matter.

Very truly yours,

  
Marc E. Elias  
Brian G. Svoboda  
Counsel to Meetup.com



Richard Ewell

01/21/2004 10:38 AM

To: [BSvoboda@perkinscoie.com](mailto:BSvoboda@perkinscoie.com), [MElias@perkinscoie.com](mailto:MElias@perkinscoie.com)  
cc: [Merita.Johnson/FEC/US@FEC](mailto:Merita.Johnson/FEC/US@FEC)

Subject: Request for Advisory Opinion on behalf of Meetup.com

Dear Mssrs. Elias and Svoboda;

Thank you for responding to our request for additional information with respect to your request for an Advisory Opinion on behalf of Meetup.com. Your response, which we received on January 12, 2004, appears to provide most of the information requested. However, your inquiry does not yet qualify as a complete advisory opinion request.

A. Your response to Question 2 explains that Meetup provides, for a fee, services to "sponsors" of Meetups on particular subjects. In your answer to Question 2, you state that "Meetup will provide a sponsor with the opportunity to influence certain limited content on the Meetup web site." Please provide a more detailed description of the "opportunity to influence" and the "limited content" at issue. Please specify any terms or conditions established by Meetup in granting this opportunity, such as whether the sponsor is limited to a specific amount of space, whether additional content or influence can be purchased for a separate fee, and whether Meetup grants each sponsor, including federal candidates, the same "opportunity to influence" on the same terms.

B. Your response to Question 6 does not provide the information requested in Question 6(a) regarding how events are selected as "Featured Meetups," and by whom. It is not clear from your response whether an event given "Featured Meetup" status is selected by Meetup.com, its users, or some other party, or whether the selection of the "Featured Meetups" are based on the content or topic of the event, a specific amount of money paid (whether through an auction or set amount), the number of persons expressing interest in the event, or some other method. Your answer to Question 6 simply referred to your answer to Question 2, which could be interpreted as your indication that all "sponsors" are granted "Featured Meetups" status, and that such status is given in exchange for paying to sponsor an event. Please confirm whether this interpretation is correct, or otherwise provide a complete answer to Question 6(a).

Please provide the information requested above. Upon receipt of your response, this Office will give further consideration to your inquiry. If you have any questions about the advisory opinion process, or this e-mail, please contact me at 202-694-1650.

Sincerely,

Richard Ewell  
Attorney



"Elias, Marc-WDC" <MEllas@perkinscoie.com> on 02/01/2004 10:19:28 AM

To: "rewell@fec.gov" <rewell@fec.gov>, "Svoboda, Brian-WDC" <BSvoboda@perkinscoie.com>  
cc: mjohnson@fec.gov

Subject: RE: Request for Advisory Opinion on behalf of Meetup.com

Dear Mr. Ewell:

Below are the additional information you have requested.

A. For a separate fee, sponsor/partners are able to control what the text in the 'what' section of the Meetup page says (this is the descriptive area on their Meetup page). They are limited to 20 words and 2 links in this space. Also for a fee, partners can control text that appears in emails sent to members of their Meetup. This text is limited to 500 characters and 2 links per email. Each member receives 3-5 emails per month. Additionally, for a fee partners can have the ability to set the top Agenda item on their Meetup page (this is a suggested discussion topic for the actual Meetup). There are no space limits on this area. All sponsors/partners seeking the same services are offered the same terms and opportunities on identical terms. Furthermore, candidate sponsors/partners within the same class (i.e., presidential, senatorial, congressional) are all offered terms on an identical basis which represents the usual and customary charge for the services provided.

B. "Featured Meetups" are determined by two factors. Every partner gets access to be a Featured Meetup for a different period of time, based on the fee level of their partnership. Additionally, Meetup's communications department regular posts Featured Meetups about interesting or timely topics. Meetup does not feature any candidate Meetups that aren't paid sponsors.

I hope and expect that this will satisfy your needs for purposes of moving this request forward.

Marc Elias  
Perkins Coie, LLP  
Counsel for Meetup.com

-----Original Message-----

From: rewell@fec.gov [mailto:rewell@fec.gov]  
Sent: Wednesday, January 21, 2004 10:39 AM  
To: Svoboda, Brian-WDC; Elias, Marc-WDC  
Cc: mjohnson@fec.gov  
Subject: Request for Advisory Opinion on behalf of Meetup.com

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Please provide the information requested above. Upon receipt of your response, this Office will give further consideration to your inquiry. If you have any questions about the advisory opinion process, or this e-mail, please contact me at 202-694-1650.

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Attorney

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Marc Elias  
Perkins Coie, LLP  
Counsel for Meetup.com

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Cc: mjohnson@fec.gov  
Subject: Request for Advisory Opinion on behalf of Meetup.com

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Sincerely,

**Richard Ewell**  
Attorney