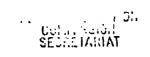
## AGENDA DOCUMENT NO. 11-39-8



## FEDERAL ELECTION COMMISSION WASHINGTON, D.C. 20463



2011 JUN 29 P 7: 19

## **MEMORANDUM**

TO:

The Commission

AGENDA ITEM

FROM:

Cynthia L. Bauerly

For Meeting of 6-30-11

Caroline C. Hunter CLH

Vice Chair

SUBMITTED LATE

Matthew S. Petersen MS

Commissioner

Steven T. Walther EW

Commissioner

Ellen L. Weintraub EUD by CNR

Commissioner

DATE:

June 29, 2011

RE:

Draft AO 2011-11 (Colbert)

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 advortisements on other shows and networks or as content for the Committer's website), then the costs of these independent expenditure advertisements will be in-kind contributions by Viacom to the Committee and must bo reported as mich. 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 Vincom. Therefore, the Commission need toot 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 edvertisements 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>

<sup>&</sup>lt;sup>7</sup> See footnote 5 above.