




FEDERAL ELECTION COMMISSION  
Washington, DC 20463

**MEMORANDUM**

**TO:** The Commission  
Staff Director  
General Counsel  
Press Office  
Public Disclosure

**FROM:** Commission Secretary 

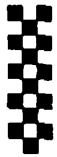
**DATE:** June 5, 2012

**SUBJECT:** Comments on Draft AO 2012-17  
(Red Blue T LLC, Armour Media, Inc.,  
and m-Qube, Inc.)

Transmitted herewith is a late submitted comment from Susan Hampel, Executive Vice President, on behalf of Xtreme Payment Processing, Inc.

Draft Advisory Opinion 2012-17 is on the June 7, 2012 open meeting agenda.

**Attachment**



**XTREME PAYMENT PROCESSING™**

**FAX**

**4 Total Pages (including cover sheet)**

June 5, 2012

**TO: The Honorable Shawn Woodhead Werth  
Secretary and Clerk of the Commission  
Federal Election Commission**

**FROM: Susan Hampel  
Executive Vice President  
Xtreme Payment Processing, Inc.**

**RE: Advisory Opinion Request 2012-17 – Red Blue T, LLC, ArmourMedia, Inc. and m-Qube, Inc.**

2012 JUN -5 PM 1:33  
FEDERAL ELECTION COMMISSION



2012 JUN -5 PM 1:33

June 5, 2012

**Via Facsimile**

The Honorable Shawn Woodhead Werth  
 Secretary and Clerk of the Commission  
 Federal Election Commission  
 999 E Street, N.W.  
 Washington D.C. 20463

**Re: Advisory Opinion Request 2012-17 - Red Blue T LLC, ArmourMedia, Inc., and m-Qube, Inc.**

Dear Madame Secretary:

These comments are submitted in response to late comments that have been submitted regarding Advisory Opinion Request 2012-17 regarding the use of cellular phone text messaging for anonymous contributions to political committees.

A number of issues have been raised regarding the anonymous text donations, many of which are not being addressed completely.

1. Mr. Theodore M. Lutz raised the following question: *"In a group plan, could the proposed \$50 contribution limit per telephone number still result in the payer of the plan making a contribution that exceeds the \$50 limit for anonymous contributions?"* The answer is yes, the payer of the plan could make a contribution that far exceeds the \$50 limit for anonymous contributions. The response from ArmourMedia cited the example of five people on one plan. It is possible that the payer of the plan could, in fact, contribute \$250 per billing cycle to a campaign anonymously. In one month they would exceed the amount allowed for anonymous donations.
2. An additional concern that has not yet been addressed is the large percentage of cellular accounts that are corporate accounts. Providers such as Verizon and Sprint have more corporate accounts than consumer accounts. There is no way to ensure that the employee is being held responsible for the donations made with a cellular telephone on a corporate account.
3. An additional concern that has not been addressed is when an employee submits a personal cell phone bill for corporate reimbursement. There is no way to ensure that the employee does not get reimbursed from a corporate account after the donation has been processed.
4. The most recent question to be addressed was regarding foreign nationals being able to contribute. While foreign numbers can be blocked from the texting system, there is nothing to prevent a foreign national from obtaining a U.S. cellular account and submitting that account for corporate reimbursement.
5. In the most recent comment from ArmourMedia dated June 4, 2012 the concept of two major methods of "opting in" to a mobile contribution are proposed:

The first is pre-registration on a web site. If pre-registration on a web site is done appropriately, then no action on the part of the FEC is required. Donations could be tracked with the detail that online donations are tracked today, with the complete information required by all donors.

The second option is a message sent through a text-to-donate system. As ArmourMedia points out, *"Of course, fitting the required consumer advisories and the election contribution eligibility message in a single 160-character text message is a challenge. m-Quiba's systems are capable of sending more than one text message before requiring the "YES" or "Y" reply to conclude the financial transaction, but there can be no assurance that carriers will relax their requirements to permit more than a single message."*

The technology already exists on the market today to allow FEC compliant donations through text messaging. Xtreme Payment Processing, Inc., a Nebraska Corporation, has developed and is currently marketing the first FEC compliant mobile donation system. The system, called XtremeDonation, provides an encrypted payment gateway through text messaging. When the consumer accesses the gateway the donation is made by credit card or ACH, rather than a charge that is placed on the cellular phone bill. The system does not require pre-registration, nor does it require an application to be downloaded to a smartphone. The system does require a web enabled cellular phone. Web enabled phones comprise 95% of the cellular phones on the market today.

The XtremeDonation system addresses the objections of Advisory Opinion 2010-23 and provides for the following:

- Donations will be tracked based on the actual payment method of the donor, rather than a cellular phone number. AOR 2012-17 asserts that the subscriber's bill is not the subscriber's contribution. The subscriber's contribution is the actual payment he makes. With the mobile donation method proposed in AOR 2012-17, there is no means by which to track the method of payment used to pay for the donation on the cellular phone bill.
- Each campaign will not have to operate on an exclusive short code, therefore eliminating an expense that could be prohibitive to a campaign with a limited budget. Traditional short codes cost an application fee of \$2,500, as well as a \$1,000-\$1,500 per month fee.
- Campaigns will not be required to use a factoring service, thus enabling the campaign to receive at least 90-95% of the donations contributed within 48 hours of the donation. The donation system proposed in AOR 2012-17 allows for a factor of 70% of donations to be received by the campaign with ten days of the donation being made.
- All donations would be deposited directly into the campaign bank account, and would not flow through any third party facilitators.
- The system is capable of interface with any campaign software on the market today through basic API integration, thus allowing for automated reporting for the political committee.
- The system is secure, and meets all industry standards for PCI compliance.
- The system is not proprietary to one texting system and can operate with any text aggregator.
- The system has been customized to collect the required information necessary for compliance with the Federal Election Commission, including name, address, occupation and employer. In addition, before a donor can proceed to make a contribution, the donor must accept and confirm that the following statements are true and accurate:
  1. I am a U.S. citizen or a lawfully admitted permanent resident of the United States.
  2. This contribution is not made from the general treasury funds of a corporation, labor organization, national bank or of an entity or person who is a federal contractor.

3. This contribution is not made from the funds of a political action committee or of an individual registered as a federal lobbyist or a foreign agent, or an entity that is a federally registered lobbying firm or foreign agent.
4. I am not a minor under the age of 16.
5. The funds I am donating are not being provided to me by another person or entity for the purpose of making this contribution.

A recurring theme in the comments that have been submitted regarding this request is that allowing donations through texting will open up an opportunity for the average citizen to support the candidates and political committees of their choice. This is absolutely a true statement. However, donations do not need to be anonymous to allow for text donations. New technology can be embraced without sacrificing the safeguards that are in place for our political system. The technology exists and is available to the market today to provide secure mobile donations to political committees without changing FECA statutes and regulations.

For the reasons set forth above, the Commission should reject AOR 2012-17.

Sincerely yours,

Susan Hampel  
Executive Vice President  
Xtreme Payment Processing, Inc.

cc: Office of the General Counsel  
Mr. Theodore M. Lutz