

REGIONAL TRANSIT ISSUE PAPER

Agenda Item No.	Board Meeting Date	Open/Closed Session	Information/Action Item	Issue Date
11	01/09/17	Open	Action	12/16/16

Subject: Whether to Approve an Amended and Restated Policy Pertaining to Advertising on RT Facilities and Vehicles

ISSUE

Whether to approve an Amended and Restated Policy Pertaining to Advertising on RT Facilities and Vehicles

RECOMMENDED ACTION

- A. Adopt Resolution No. 17-01-____, Repealing Resolution Nos. 04-12-0290 and 06-06-0098 and Approving an Amended and Restated Policy Pertaining to Advertising on RT Facilities and Vehicles (Continue Alcohol Prohibition); or
- B. Adopt Resolution 17-01-____, Repealing Resolution Nos. 04-12-0290 and 06-06-0098 and Approving an Amended and Restated Policy Pertaining to Advertising on RT Facilities and Vehicles (Permit Limited Alcohol Advertising)

FISCAL IMPACT

Expanding the permissible advertising to include alcohol could result in additional income to RT, which receives a portion of the revenue generated by advertising contracts for buses, light rail vehicles, stations and bus shelters. Revenue share payments are made only if RT's revenue share (55% of net revenue for light rail vehicle and station advertising, and 51% for bus advertising) exceeds the Minimum Annual Guarantee.

DISCUSSION

At the Monday, November 14, 2016 Board Meeting, Staff proposed modifying the advertising policy to: (1) permit alcohol advertising; (2) prohibit marijuana advertising; (3) prohibit religious advertising; (4) better define Public Service Announcements (PSAs); and (5) prohibit advertising of electronic smoking products and devices. After discussion, the Board opted to defer action on the item to allow for further discussion with a select group of Board Members. Staff, along with Directors Steve Hansen, Jeff Harris and Don Nottoli, regrouped on Monday, November 28, 2016, to discuss RT's advertising policy. As a result of that meeting, Staff is presenting two alternative options to the Board.

The first option would continue the existing blanket prohibition on alcohol advertising, while making the other four changes to the advertising policy referenced above and modifying Section 2, "Public Forum" of the policy to address an issue raised with the language at the November 14 meeting.

Approved:

Presented:

Final 01/04/17

General Manager/CEO

VP of Communications and Partnerships

J:\Board Meeting Documents\2017\01 January 9, 2017\Advertising Policy.docx

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The second option would permit limited alcohol advertising. Staff is recommending that the policy be amended to:

- (1) Permit bar and restaurant advertising on buses and light rail trains, stations and bus shelters; and
- (2) Permit beer and wine advertising that is limited to the exterior of buses only, not exceed the size of a King Kong ad (see Attachment 1).

As previously stated, alcohol ads that appear designed to encourage or promote underage drinking would continue to be prohibited under the “unlawful conduct” category.

RT's Advertising Policy

January 9, 2017

Discussion

- Advertising Policy Issue Paper to Board – November 14
- Presented Examples and Alternative Options – November 28
- Conducted Rider Survey

RT Alcohol Advertising Survey Results

313 Responses

Are you in favor of permitting alcohol ads on buses, light rail trains, stations and bus shelters if it will help increase revenue for RT?

Yes: 57.83%

No: 42.17%

Transit agencies that permit alcohol advertising with no restrictions:

- Miami
- Napa
- West Contra Costa
- Dallas
- Denver
- Norwich (CT)
- Alexandria (LA)
- Albany
- Buffalo
- Rochester
- Syracuse
- New York (NY)
- Cleveland
- Portland
- Bend
- Scranton (PA)
- Washington DC
- Pittsburgh
- Chicago
- Atlanta
- New Jersey
- All cities in the metro Vancouver, BC area

Transit agencies that permit only beer and wine advertising:

- Phoenix
- Salt Lake City
- Sarasota (FL)
- Boston
- Minneapolis

Bus Advertising – Ad Sizes



Bus Advertising – Revised Policy



Not Permitted



Alcohol Transit Vehicle Advertising Revenue

Denver:

- Estimated bus advertising revenue last year was **\$1,197,261**
- Approximately 15% of sales were for alcohol related ads
= **\$179,589** in revenue
- Denver does not have an advertising restriction on the type of alcohol

Alternative Options:

Option 1

Continue the existing blanket prohibition on alcohol advertising, while making minor modifications to the advertising policy.

Option 2

Permit limited alcohol advertising. **Staff is recommending that the policy be amended to:**

- (1) Permit bar and restaurant advertising on buses and light rail trains, stations and bus shelters; and
- (2) Permit beer and wine advertising that is limited to the exterior of buses only, not exceed the size of a King Kong ad.

RESOLUTION NO. 17-01-_____

Adopted by the Board of Directors of the Sacramento Regional Transit District on this date:

January 9, 2017

REPEALING RESOLUTION NOS. 04-12-0290 AND 06-06-0098 AND APPROVING AN AMENDED AND RESTATED POLICY PERTAINING TO ADVERTISING ON RT FACILITIES AND VEHICLES (CONTINUE ALCOHOL PROHIBITION)

WHEREAS, Sacramento Regional Transit District (RT) has entered or will enter into licensing agreements with advertising companies whereby RT makes space available on RT vehicles and facilities for the placement of commercial advertising and public service announcements; and

WHEREAS, RT licenses space for advertising on its buses and bus shelters to create an additional source of operating revenue that will fund additional transit services and amenities; and

WHEREAS, RT's licensing agreements limit the type of advertisements that may be placed on RT bus shelters and vehicles so that those places do not become a public forum for the dissemination, debate, and/or discussion of public issues; and

WHEREAS, RT's licensing agreements prohibit certain types of advertising to promote a safe, convenient and pleasant environment for RT patrons and to maximize fare revenues by attracting and maintaining the patronage of passengers; and

WHEREAS, the RT Board desires to modify its existing policy (embodied in Resolution Nos. 04-12-0290 and 06-06-0098) pertaining to display of advertising on RT vehicles and facilities.

NOW, THEREFORE, BE IT HEREBY RESOLVED BY THE BOARD OF DIRECTORS OF THE SACRAMENTO REGIONAL TRANSIT DISTRICT AS FOLLOWS:

Section 1: Public Purpose

In adopting this policy it is RT's declared intent and purpose to maximize advertising revenues provided that all of the following interests are preserved and furthered:

- A. Providing a safe, convenient and pleasant environment for RT patrons, which includes maximizing RT fare revenues by attracting and maintaining the patronage of passengers; and
- B. Protecting minors who use RT facilities and travel on RT's transportation system; and
- C. Avoiding any potential identification of RT with the point of view or message of the advertisement placed by a third party.

Section 2: **Public Forum**

In adopting this policy, it is RT's declared intent and purpose to not permit advertising that individually or in combination would cause any real or personal property owned or controlled by RT (hereinafter "RT Property") to become a public forum for free speech activities under state or federal law.

Section 3: **Advertising on RT Facilities and Vehicles by Permission**

Advertising placed by a third party on RT Property is not authorized unless permitted in accordance with the provisions of a license agreement approved by RT. Any license agreement approved by RT for the placement of advertising on RT Property must be consistent with the provisions of this policy. Pre-existing licensing agreements for advertising on RT Property will be amended, if necessary, to be consistent with this policy and to make any other changes that may equitably be required thereby.

Section 4: **Authorized Advertisements and Announcements**

Advertising placed by a third party on any RT Property must either be a commercial advertisement or a public service announcement. For the purposes of this policy:

A. A commercial advertisement is an advertisement that: (i) has as its primary purpose the promotion of a commercial transaction, such as the sale of real or personal property, services and/or entertainment, which is offered to the public generally and (ii) is not otherwise prohibited under Section 5.

B. A public service announcement is an announcement that:

1. Is directed to the general public or a significant segment of the public and relates to:
 - A community event hosted by a public entity;
 - Prevention or treatment of illnesses;
 - Promotion of safety or personal well-being;
 - Education or training;
 - Provision of children and family services; or
 - Provision of services and programs that provide support to low income citizens, senior citizens, and people with disabilities; and
2. Is placed by RT or a California public entity and is not otherwise prohibited under Section 5. A public service announcement must bear the following legend if the sponsor is not readily or easily identifiable from the content of the proposed announcement: "This message is sponsored by _____ (name of sponsor)"; or
3. Is placed by a non-profit corporation, if all of the following criteria are met: (i) The organization sponsoring the ad is qualified as a tax-exempt organization under Section 501(c)(3) of the Internal Revenue Code; (ii) The organization provides RT with a letter on the letterhead of a public entity attesting that the primary purpose of the proposed announcement is to the public health, safety, or welfare or announces an upcoming event or a service provided by or sponsored by a

California public entity, which letter must be signed by the City Manager, County Executive or a department head; and (iii) The announcement includes the following text: "This message is sponsored by (name of non-profit)"; and

4. The announcement is not otherwise prohibited under Section 5.

Section 5: **Viewpoint Neutral Limitations**

The following viewpoint-neutral content-based limitations are established. No advertisement or announcement (hereinafter referred to as "Ad") is permitted on or may be maintained on any RT Property if it or information contained in it falls within one or more of the following categories:

- A. False, misleading, or deceptive. The Ad, or any material contained in it, is false, misleading, or deceptive.
- B. Unlawful goods or services. The Ad, or any material contained in it, promotes or encourages, or appears to promote or encourage, the use or possession of unlawful or illegal goods or services.
- C. Unlawful conduct. The Ad, or any material contained in it, promotes, depicts or encourages, or appears to promote, depict or encourage, unlawful behavior or activities.
- D. Endorsement. The Ad, or any material contained in it, implies or declares an endorsement by RT of any service, product or point of view, without prior written authorization of RT (through its General Manager/CEO).
- E. Obscenity. The Ad, or any material contained in it, contains obscene matter or any other matter that is prohibited under the provisions of California Penal Code Section 311 and following, as such laws may be amended or supplemented.
- F. Prurient Interests. The Ad, or any material contained in it, contains harmful matter or any other matter that is prohibited under the provisions of California Penal Code Section 313 and following, as such laws may be amended or supplemented.
- G. Profanity, Vulgarity, Riot. The Ad, or any material contained in it, is profane or vulgar, or presents a clear and present danger of causing a riot, disorder, or other imminent threat to public safety, peace or order.
- H. Community Standards. The Ad contains material that is so objectionable under contemporary community standards as to be reasonably foreseeable that it will result in harm to, disruption of, or interference with the transportation system.

- I. Libelous speech, Copyright infringement. The Ad, or any material contained in it, holds up an individual or groups of people to public ridicule, derision or embarrassment, or is libelous, or is an infringement of a copyright, trademark or registered mark.
- J. Alcohol. The Ad, or any material contained in it, promotes or depicts the sale or use of alcohol.
- K. Tobacco. The Ad, or any material contained in it, promotes or depicts the sale or use of tobacco or tobacco-related products, except products that counteract symptoms of tobacco habituation.
- L. Marijuana. The Ad, or any material contained in it, promotes or depicts the sale or use of marijuana.
- M. Firearms. The Ad, or any material contained in it, directly or indirectly promotes the sale or use of a firearm or contains an image or depiction of a firearm.
- N. Political Campaign Speech. The Ad, or any material contained in it, contains political campaign speech. For purposes of these guidelines, the term “political campaign speech” is speech that (1) supports or opposes or appears to support or oppose a ballot measure, initiative, or referendum, or (2) refers to any candidate for public office.
- O. Religion. The Ad, or any material contained in it, promotes or opposes any religion, religious belief, or practice.
- P. Traffic Interference. The Ad, or any material contained in it, displays any word, phrase, symbol, or character likely to interfere with, mislead, or distract traffic, or conflict with any traffic control device.
- Q. Distraction. The Ad, or any material contained in it, incorporates any rotating, revolving, or flashing devices, or any other moving parts.
- R. Violence. The Ad, or any material contained in it, contains an image or description of graphic violence, including, but not limited to (1) the depiction of human or animal bodies or body parts, or fetuses, in states of mutilation, dismemberment, decomposition, or disfigurement, and (2) the depiction of weapons or other implements or devices associated in the advertisement with an act or acts of violence or harm on a person or animal.
- S. “Adult”-oriented goods or services. The Ad, or any material contained in it, promotes or encourages, or appears to promote or encourage, a transaction related to, or uses brand names, trademarks, slogans or other materials which are identifiable with, films rated “X” or “NC-17”, video games rated “A” or “M,” adult book

stores, adult video stores, nude dance clubs and other adult entertainment establishments, adult telephone services, adult Internet sites, and escort services.

- T. Electronic Smoking Products, Services, or Devices. The Ad, or any material contained in it, promotes or encourages use of electronic or battery-operated devices that deliver vapors for inhalation.

- U. Special provisions regarding web addresses and telephone numbers.
The Ad, or any material contained in it, directs viewers to a website or telephone number that contains material that violates this Policy.

- V. Public Forum
The Ad, or any material contained in it, if posted individually or in combination with other Ads, causes RT Property to become a public forum for free speech activities under state or federal law.

- X. Disclaimer or Attribution
The Ad fails to contain any disclaimer or attribution as required under Section 6 and 7 of this Policy.

Section 6: **Disclaimer**

RT reserves the right, in all circumstances, to require an advertisement or announcement on any real or personal property under RT's control to include a disclaimer stating that it is not sponsored by, and does not necessarily reflect the views of RT.

Section 7: **Attribution**

All advertisements or announcements on RT Property must clearly and unambiguously identify the person or entity that has sponsored, paid for, or caused the advertisement or announcement to be placed on RT Property. Website addresses or phone numbers without more, are insufficient to satisfy this section.

Section 8: **Moratorium**

At the discretion of RT's General Manager/CEO, RT may at any time, subject to any contractual obligations, declare a complete ban or moratorium on all advertising on any real or personal property under RT's control and direct that no advertisements or announcements of any kind, other than RT advertisements or announcements, be accepted for display and posting.

Section 9: **Repeal of Resolution Nos. 04-12-0290 and 06-06-0098**

Effective upon the approval of this Resolution, Resolution Nos. 06-12-0290 and 06-06-0098 are hereby repealed.

JAY SCHENIRER, Chair

A T T E S T:

HENRY LI, Secretary

By: _____
Cindy Brooks, Assistant Secretary

RESOLUTION NO. 17-01-_____

Adopted by the Board of Directors of the Sacramento Regional Transit District on this date:

January 9, 2017

REPEALING RESOLUTION NOS. 04-12-0290 AND 06-06-0098 AND APPROVING AN AMENDED AND RESTATED POLICY PERTAINING TO ADVERTISING ON RT FACILITIES AND VEHICLES (PERMITS LIMITED ALCOHOL ADVERTISING)

WHEREAS, Sacramento Regional Transit District (RT) has entered or will enter into licensing agreements with advertising companies whereby RT makes space available on RT vehicles and facilities for the placement of commercial advertising and public service announcements; and

WHEREAS, RT licenses space for advertising on its buses and bus shelters to create an additional source of operating revenue that will fund additional transit services and amenities; and

WHEREAS, RT's licensing agreements limit the type of advertisements that may be placed on RT bus shelters and vehicles so that those places do not become a public forum for the dissemination, debate, and/or discussion of public issues; and

WHEREAS, RT's licensing agreements prohibit certain types of advertising to promote a safe, convenient and pleasant environment for RT patrons and to maximize fare revenues by attracting and maintaining the patronage of passengers; and

WHEREAS, the RT Board desires to modify its existing policy (embodied in Resolution Nos. 04-12-0290 and 06-06-0098) pertaining to display of advertising on RT vehicles and facilities.

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- C. Avoiding any potential identification of RT with the point of view or message of the advertisement placed by a third party.

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 - Provision of services and programs that provide support to low income citizens, senior citizens, and people with disabilities; and
2. Is placed by RT or a California public entity and is not otherwise prohibited under Section 5. A public service announcement must bear the following legend if the sponsor is not readily or easily identifiable from the content of the proposed announcement: "This message is sponsored by _____ (name of sponsor)"; or
3. Is placed by a non-profit corporation, if all of the following criteria are met: (i) The organization sponsoring the ad is qualified as a tax-exempt organization under Section 501(c)(3) of the Internal Revenue Code; (ii) The organization provides RT with a letter on the letterhead of a public entity attesting that the primary purpose of the proposed announcement is to the public health, safety, or welfare or announces an upcoming event or a service provided by or sponsored by a

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- H. Community Standards. The Ad contains material that is so objectionable under contemporary community standards as to be reasonably foreseeable that it will result in harm to, disruption of, or interference with the transportation system.
- I. Libelous speech, Copyright infringement. The Ad, or any material contained in it, holds up an individual or groups of people to public

ridicule, derision or embarrassment, or is libelous, or is an infringement of a copyright, trademark or registered mark.

- J. Alcohol. The Ad, or any material contained in it, promotes or depicts the sale or use of alcohol, with the exception of Ads that satisfy the following criteria, which are permitted:
1. Advertisements of bars and restaurants that serve alcohol, if the advertisement does not promote an alcohol brand other than one for which the restaurant or bar is named; and
 2. Ads for beer and wine on the exterior of buses that do not exceed 96" tall by 230" wide.
- K. Tobacco. The Ad, or any material contained in it, promotes or depicts the sale or use of tobacco or tobacco-related products, except products that counteract symptoms of tobacco habituation.
- L. Marijuana. The Ad, or any material contained in it, promotes or depicts the sale or use of marijuana.
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- T. Electronic Smoking Products, Services, or Devices. The Ad, or any material contained in it, promotes or encourages use of electronic or battery-operated devices that deliver vapors for inhalation.
- U. Special provisions regarding web addresses and telephone numbers.
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JAY SCHENIRER, Chair

A T T E S T:

HENRY LI, Secretary

By: _____
Cindy Brooks, Assistant Secretary