

WTTW COMMUNITY ADVISORY BOARD

SPECIAL REPORT ON PAID POLITICAL ADVERTISING

June 19, 2012

At its meeting of April 17, 2012, the WTTW Community Advisory Board (“CAB”) took note of a decision filed on April 12, 2012, by the United States Court of Appeals for the Ninth Circuit in *Minority Television Project, Inc. v. Federal Communications Commission*, No. 09-17311. In that case the court held, *inter alia*, that to the extent that a Federal statute, 47 U.S.C. § 399b, prohibited public broadcast radio and television stations from broadcasting political advertisements, the statute offended the First Amendment of the United States Constitution. In light of that holding, then, it appears that, along with all other public broadcasters, WTTW is now free, but not required, to broadcast paid political advertising.

The CAB has previously advised the Trustees and Management of WTTW that the Board finds that “The community needs fair, balanced, accurate, and comprehensive sources of information regarding local questions of public policy and divergent perspectives regarding them”, WTTW CAB Annual Report for 2011 (Dec. 13, 2011), Educational and Cultural Needs, ¶ 6; “Viewers and the CAB have observed instances when reporting and commentary have been unbalanced and / or inadequate, sometimes lacking alternative views provided by scientific, medical, ethics, political, and religious segments of the community”, *Id.* at Educational and Cultural Needs, ¶ 7; and “The community needs more and better information regarding candidates for local public office”, *Id.* at Educational and Cultural Needs, ¶ 8. In addition, the CAB has expressed its profound concerns about “the safeguarding of freedom of speech and broadcasting independence”; *see, e.g.*, CAB Resolution on the “Fairness Doctrine” reported in the CAB’s Annual Report for 2010.

Against this background the CAB determined that the question of whether or not WTTW should act, in light of the judicial decision in *Minority Television Project, Inc. v. Federal Communications Commission*, to change its policies so as to broadcast paid political advertising, is an important question affecting the public interest regarding which the CAB should furnish its views to the Trustees and Management of WTTW. The CAB further determined that, because major national, State, and local elections are scheduled to be held in November 2012 and that the season during which timely and meaningful political commercials intended to enrich and affect public discussions in connection with those elections must be broadcast will end in early November 2012, circumstances would not admit of delaying the CAB’s study of and reporting on the question until the preparation and submission of the CAB’s annual report for 2012 (which is scheduled to occur in December 2012, after the 2012 elections).

Accordingly, the CAB decided immediately to solicit public comment on the question and to discuss and debate the question at its public meeting of June 19, 2012.

Public comment was solicited and was received, in writing, and is, or will be, attached to the Minutes of the Meeting of the WTTW Cab of June 19, 2012, which will be publicly released (including by publication of the CAB page of the WTTW website) after the minutes are reviewed and approved by the CAB at its next regularly-scheduled public meeting on August 21, 2012.

The public comments were received and considered, and the question was discussed and debated, by the CAB at its public meeting of June 19, 2012. After some general discussion, Renée Summers, a Member of the CAB, moved that the CAB “recommend the station make no changes in its policies under which it currently does not broadcast paid political commercials”. The motion was duly seconded and was then debated at length.

Arguments in favor of the motion included the following;

- (1) The time devoted to the airing of commercials provided by advertisers would be better used by fair and balanced journalistic coverage of issues and personalities involved in campaigns and elections;
- (2) Commercials, in their form and style, are likely to detract from the atmosphere of serious and unbiased consideration of controversies that public television aspires to offer;
- (3) For many viewers public television provides an oasis of respite and refuge from political commercials, particularly in a time when political commercials are, or are perceived to be, lacking in civility and thoughtfulness;
- (4) Devoting air time to commercials for well-funded national political campaigns, candidacies, and interest groups are likely to crowd out commercials and journalistic coverage relating to State and local races that tend to be underreported;
- (5) The sale of available air time to advertisers with available money might tend, from time to time, to lead to partisan imbalances in the amount of air time devoted to a particular candidacy or a particular cause, leading to an unwarranted, but nonetheless poisonous, perception of lack of fairness and balance on the part of the station.

Arguments in opposition to the motion included the following:

- (1) The sale of political advertising could raise much needed revenue for the operations of the station, including funds that could be applied to the expansion and enhancement of WTTW’s coverage of politics and public policy controversies and the provision of more “candidate free time” for candidates for local public office;
- (2) On-air competition by commercial presentations of political views has the potential to stimulate improvement of WTTW’s journalistic coverage of the same subjects;
- (3) The opportunity to broadcast paid commercials of their own devising and production would permit candidates and interest groups to redress the unfairnesses, imbalances, errors, and biases found in the station’s coverage; and

- (4) Exercise of a freedom once denied by government is a virtue in itself. That is, when government has prohibited something, and that prohibition has been found to exceed, impermissibly, government's authority, then it is sometimes wise thereafter to exercise the prohibited right, if only on a *pro forma* basis, and if only to demonstrate that the denial of the liberty does not continue through the passive acquiescence of the people.

At the conclusion of the debate the question was put to the members of the CAB. The movant and the seconder, having left the meeting early because of other obligations, did not vote. The motion was passed by a vote of 12 ayes to 1 nay.

Accordingly, the WTTW Community Advisory Board respectfully reports to the Trustees and Management of WTTW that the station make no changes in its policies under which it currently does not broadcast paid political commercials.

Respectfully submitted,

For the Community Advisory Board,

/s/ JOSEPH A. MORRIS

JOSEPH A. MORRIS
Chairman

Dated: July 15, 2012, as of June 19, 2012.