



MEMORANDUM

To: Ted R. Smith, Chair of TARC Board of Directors

From: Ozzy Gibson, Interim Executive Director

Date: March 27, 2024

Re: Resolution 2024-10 Advertising Policy

TARC has previously had two separate vendors for advertising on its buses and shelters. However, at the beginning of January 1, 2024, TARC took over the responsibility of its shelters, including advertising on such facilities. As a result, TARC does not currently have an advertising policy with respect to its shelters.

TARC continues to have an agreement with Lamar Transit, LLC ("Lamar") to advertise on its buses. The criteria of permissible content with respect to advertisements on its buses is set forth in the contract that TARC has with Lamar.

TARC believes its advertising policy should be consistent in the governance of the activity over both buses and shelters. TARC also wishes to establish standards and guidelines that will guide current and future contracts and discussions. Attached is a Resolution and an Advertising Policy for the Board's consideration and adoption that will set forth a consistent advertising policy on its buses and shelters and establish guidelines and standards for such advertising.

If you should have any questions about the Resolution or Policy, please call me at 561-5100. Thank you.



RESOLUTION 2024-10 Advertising Policy

A Resolution adopting the Transit Authority of River City (TARC) Advertising Policy.

WHEREAS, TARC has never had a stand-alone advertising policy for its buses and shelters; and

WHEREAS, as a result, TARC has had inconsistent policy on what is permitted to be advertised on its buses and shelters; and

WHEREAS, TARC would like to establish an Advertising Policy that would be consistent and establish guidelines and standards across TARC's advertising landscape; and

NOW THEREFORE, THE BOARD OF DIRECTORS OF THE TRANSIT AUTHORITY OF RIVER CITY HEREBY RESOLVE THAT:

The attached Advertising Policy is hereby adopted.

ADOPTED THIS 27th DAY OF MARCH 2024

Ted R. Smith, Board Chair

I. Advertising Standards and Guidelines

A. Advertising Policy

Transit Authority of River City (“TARC”) intends that its facilities and/or property shall constitute non-public forums. TARC does not commit or dedicate any of its facilities and/or property for use as a forum for communication on public issues; rather, advertising shall be limited as set forth in this policy and may be further limited in TARC’s discretion. Advertising on TARC facilities is not open to any and all advertisers. TARC intends to retain control over the type of advertising that it will allow on its buses, paratransit vehicles, facilities and/or property. As such, certain forms of paid and unpaid advertising will not be permitted for placement or display on or in TARC facilities and/or its property.

B. Limitations on Advertising

TARC shall not display or maintain any advertisement that falls within one or more of the following categories.

1. promotes the sale of tobacco or tobacco-related products, including advertisements depicting such products;
2. promotes adult book stores, adult video stores, dance clubs featuring nudity or erotic dancing and other similar adult entertainment establishments, adult telephone services, adult Internet sites and escort services;
3. promotes unlawful or illegal goods or services, including material contained therein or referred to therein which appears to promote or encourage, the use or possession of such unlawful or illegal goods or services;
4. promotes unlawful or illegal activities or conduct, including material contained therein or referred to therein which appears to promote or encourage such activities or conduct;
5. appears to be false, misleading or deceptive, including material contained therein which is false, misleading or deceptive;
6. implies or declares an endorsement by TARC of any goods, service, activities or points of view, including material contained therein or referred to therein which implies or declares any such endorsement, without the prior written authorization of TARC;
7. appears to be libelous, an invasion of privacy, an infringement of copyrighted material, or otherwise appears unlawful or illegal or likely to subject TARC to litigation;
8. promotes, supports or contains political speech, meaning speech that (1) pertains to any candidate for public office, (2) pertains to specific ballot question, initiative petition, or referendum, or (3) addresses a disputed political issue or cause;

9. fosters sexual, racial, religious or other offensive stereotypes, including material contained therein or referred to therein which fosters such stereotypes;
 10. contains profane language;
 11. contains nudity, obscenity, materials indecent or inappropriate as to minors, or materials which otherwise depict sexual activities, conduct, excitement, or sadomasochistic abuse;
 12. contains images of graphic violence, including, but not limited to, the depiction of acts of violence or harm to a person or animal and images of human or animal bodies or its parts in a mutilated, dismembered, decomposed and/or disfigured state;
 13. contains material that appears (from the viewpoint of a reasonably prudent person) to demean, disparage, ridicule, mock, abuse, display hostility to, or debase the dignity or stature of, any individual or group of individuals or any racial, religious or ethnic group;
 14. contains material which is likely to offend, discomfort, or annoy TARC customers, or make them feel unwelcome, unsafe, or uncomfortable;
 15. displays any word, phrase, symbol, or character likely to interfere with, mislead, or distract traffic, or conflict with any traffic control device;
 16. demeans or disparages an individual or group of individuals. For purposes of determining whether an advertisement contains such material, TARC will determine whether a reasonably prudent person, knowledgeable of TARC's ridership and using prevailing community standards, would believe that the advertisement contains material that ridicules or mocks, is abusive or hostile to, or debases the dignity or stature of, an individual or group of individuals.
- C. Advertisement of Alcohol Experiences, Tours, Associated with Events or Sales by Retail Entities

Advertisements related to alcohol experiences, tours, associated with events, or sales by retail entities are permitted. However, the advertisement shall contain a statement, occupying at least 3% of the area of the advertisement, that indicates the legal drinking age in Kentucky and warns of the dangers of alcohol consumption during pregnancy, or in connection with the operation of heavy machinery, or while driving. In addition, the advertisement shall contain a statement "Please Drink Responsibly and in Moderation." Advertisements of alcohol which only showcase or depict a specific brand or type of alcohol are prohibited unless associated with one of the aforementioned permitted alcohol advertisements.

D. Additional Limitations for Non-Commercial Advertisers

1. TARC will accept advertisements from non-commercial advertisers to promote charitable events or community outreach efforts, so long as the advertiser is a charitable or religious organization with tax exempt status, *i.e.*, 501 (c)(3) status or is a government or government-sponsored organization. Advertisements from non-commercial advertisers must likewise comply with the guidelines set

forth in herein.

2. The spaces available on TARC's buses, paratransit vehicles and facilities are limited in number. In light of TARC's stated goal of maximizing revenue generated by advertising, priority as to the posting and placement of ads will be given to commercial advertisers over non-commercial advertisers.

E. Disclaimers

TARC reserves the right, in all circumstances, to require that an advertisement on or in its facilities and/or property include attribution to the sponsor of the advertisement and/or a disclaimer indicating that it is not sponsored by, and does not necessarily reflect the views of TARC.

F. Promotion of Transportation Function

Notwithstanding any particular limitations set forth above, TARC has the unqualified right to display, on it in its facilities and/or property, advertisements and notices that pertain to TARC operations and promotions or that otherwise encourage and promote public use of TARC's transportation facilities or public or mass transit in general.

G. Right to Modify

In light of TARC's stated goals of maximizing its ridership and providing a friendly and welcoming environment for its riders, TARC reserves the right to modify, change or withdraw existing advertisements based upon complaints or other information.

II. Administration of Standards and Guidelines

A. Advertising Contractor. TARC may, from time to time, select an "Advertising Contractor" who shall be responsible for the daily administration of a segment or all of TARC's advertising program, in a manner consistent with the guidelines set forth herein and the terms of its agreement with TARC. The advertising program shall include, but not be limited to, promotion, solicitation, sales, accounting, billing, collections, and posting of advertising displays on or in all TARC facilities and/or property including, but not limited to, transit vehicles.

B. Review by Advertising Contractor. TARC's Advertising Contractor will review each advertisement submitted for display and installation on TARC's buses, paratransit vehicles, or facilities and/or property, to determine whether the proposed advertisement falls within, or may fall within, prohibitions or limitations under this Policy. Internet addresses or websites listed on advertisements may be scrutinized and to the extent that such referenced places contain material which is deemed objectionable per the standards set forth herein, the advertisement may be deemed objectionable based on such materials.

C. Review by TARC. If the Advertising Contractor determines that an advertisement falls within, or may fall within, prohibitions or limitations under this Policy, the following steps will be taken.

- (1) the Advertising Contractor will promptly provide the advertiser with a copy of these standards and written notice of its determination, the reasons for the determination and the option for the advertiser to request a review of the

- decision before TARC;
- (2) the Advertising Contractor will provide TARC with a copy of the written notice to the advertiser and the advertisement at issue;
 - (3) upon written request from the advertiser, TARC will conduct a review within fourteen (14) days of receipt of such a request, to determine whether the advertisement at issue falls within prohibitions or limitations under this Policy; and
 - (4) within five (5) days of the review conducted by TARC, it will provide the advertiser and the Advertising Contractor with a written notice of its determination. TARC's determination will be final.

D. **No Rights Created.** In setting for the above review process, TARC does not intend to create any due process rights for advertisers. Rather, TARC's intent is to establish a review process for the purpose of attempting to ensure the uniform application and enforcement of the stated guidelines and standards.

E. **Severability.** If prohibition or limitation under this Policy is determined to be invalid as applied to any particular type of TARC bus, paratransit vehicle, facility and/or property, the category shall, to the extent permissible, remain applicable to all other types of TARC buses, paratransit vehicles, facilities and/or property.

F. **Amendment.** TARC reserves the right to amend these policies and standards at any time. Any revisions or amendment to this policy will be in writing and supplied to the Advertising Contractor. Any member of the public may obtain a copy of these policies and standards at any time, upon request.

III. Design and Minimum Advertising Purchases

A. **Amount.** TARC's Marketing Department, in cooperation with the Advertising Contractor, will establish minimum rates and/or amounts of advertising that must be purchased by an advertiser before an advertisement is accepted.

B. **Schedule.** The minimum rates and/or amounts of advertising required to be purchased will be made available to any potential advertisers by the Advertising Contractor. A rate card, to be reviewed and approved by TARC's Marketing Department, will be published for advertising space and production charges offered to the public on, at minimum, an annualized basis. Co-promotional trade programs will be considered on a proposal basis only with a minimum of one-month lead time and are not available to offset revenue guarantees

C. **Revenues.** Contracts must include a remittance of revenues to TARC. Revenues from these contracts shall be retained by TARC and used to offset the need for public subsidy. Revenues pledged to a particular operation shall be accounted for in accordance with regulatory requirement. In lieu of revenue, TARC may accept an equivalent value of goods and/or services, including but not limited to capital improvements, information services, advertising, site maintenance and other benefits.