

## Board Report and Staff Summary

SUBJECT: RTA Advertising Content Policy	AGENDA NO:
DESCRIPTION: Draft of new revised advertising content policy for the RTA	FILE #:
ACTION REQUEST: <input checked="" type="checkbox"/> Approval <input type="checkbox"/> Review Comment <input type="checkbox"/> Information Only <input type="checkbox"/> Other	

RECOMMENDATION:

To adopt the new advertising content policy.

ISSUE/BACKGROUND:

Now that the RTA has taken over management and administration of the agency, it has begun the process to establish industry standard agency policies including the Advertising Content Policy. The purpose of the new policy is to establish acceptable advertising standards for internal and external display on RTA vehicles, property, transit shelters and all other passenger facilities, other designated locations, print publications, electronic messaging and other available opportunities.

As a public agency, the RTA recognizes its responsibility to promote messaging that aligns with the public good and welfare of New Orleans residents and visitors. This new policy is reflected in this understanding and is a significant departure from current advertising practices but aligned with industry-standard advertising policies.

In the absence of an RTA advertising content policy, the agency has been reliant on the Contractors Advertising Content Policy which is provided below:

*The Contractor will not discriminate based on race, color or creed. Advertising shall not contain false information, obscene language, pornographic material or any language meant to incite civil unrest. Tobacco advertising is prohibited. Implied inappropriate creative will not be allowed.*

*No advertising shall include language, pictures or other graphic representations that are unsuitable for exposure to persons of young age and immature judgment, or shall be derogatory of any person or group because of race, national origin, ethnic background, religion or gender.*

The proposed advertising content policy limits the RTA to only the following categories of advertising content:

1. **Commercial Advertising.** Paid communications from a for-profit entity or entities that propose a commercial transaction involving lawful goods and services.
2. **Governmental Advertising.** Paid communications from public entities created by government action with the intent to advance a specific government purpose as well as communications from RTA related to RTA programs, products, services or partnerships.
3. **Public Service Announcements.** Paid communications from any entity which promotes or furnishes any of the following goods or services:
  - a. The prevention or treatment of an illness, injury, condition, or syndrome recognized by the most recent Diagnostic and Statistical Manual (“DSM”) or the Centers for Disease Control “CDC”;
  - b. The recruitment or solicitation of participants for medical, psychological or behavioral studies;
  - c. Museums, theaters, or galleries which are open to the general public;
  - d. Licensed or accredited pre-K through 12 education programs or services;
  - e. Colleges or universities that have received regional or statewide accreditation;
  - f. Vocational or trade programs;
  - g. Visual or performing arts, fairs or festivals, provided that the venue or event is open to the general public and has a valid operating permit issued by a governmental entity;
  - h. Environmental matters;
  - i. Provision of services and programs that provide support to low income citizens, victims of abuse, families, youth, immigrants, historically disadvantaged populations, senior citizens, veterans, people identifying as LGBT or people with disabilities;
  - j. Solicitation by broad-based contribution campaigns which provide funds to multiple charitable organizations;
  - k. Diet or nutrition;
  - l. Sporting events, sporting activities, or services related to sports;
  - m. Travel Services, information or promotion;
  - n. Licensed farmers markets, public botanical gardens or public parks;
  - o. Commercial or professional trade organizations;
  - p. Credit Unions, investment entities or financial services;
  - q. Zoos, planetariums or aquariums;
  - r. Governmentally funded public broadcast entities; or
  - s. Government-designated historic sites.

**Current Contract Structure:**

The contract between the Contractor and RTA grants the Contractor the exclusive right to market advertising space on RTA buses, streetcars and catenary poles. The proposed Advertising Content Policy does not address structure of the contract between the Contractor and the RTA. The contract is not under review in aforementioned policy but is provided below as background.

The Contractor pays the RTA a fee equal to 52% of its monthly Net Revenue as defined within the contract. The Contractor submits an annual statement to RTA within three months after the end of each contract year. The statement provides the amount of Net Revenue for the year, the amount due to the RTA. Payments are submitted by the Contractor to the RTA on or before the last day of each month covering the amount due for the prior month based on Net Revenues for the prior month.

Each year the Contractor reviews its Rate Card and pricing policies with the RTA, along with Rate Cards from comparably sized cities so that the RTA can be sure the contractor is maximizing revenue for both parties.

Credits will be issued to advertisers for days that buses are not in service due to maintenance work or for other reasons. During prolonged periods due to maintenance or other causes when the advertiser's ads will not be visible to the public, appropriate credits may be given to advertising clients. Written explanations for these credits are provided to RTA as part of the quarterly report.

#### DISCUSSION:

The new Advertising Content Policy addresses the RTAs need to establish acceptable advertising standards and will establish enforcement of these content restrictions for all internal and external display on RTA vehicles, property, transit shelters and all other passenger facilities, other designated locations, print publications, electronic messaging and other available opportunities.

Under the current advertising content policy material that directly advertises alcohol is allowed. The new content policy will restrict advertisements of material that directly advertises alcohol, or any material that depicts the consumption of alcoholic beverages or signs of excessive alcohol intoxication. In accordance with the Consumer Protection Act and in effort to hold sellers of goods and services accountable when they seek to profit by taking advantage of a consumer's lack of information or bargaining power, the new content policy will also restrict false, misleading and tortious content to include companies who employ predatory lending tactics and other such exploitative targeted advertising.

Furthermore, the new content policy lists eight restricted categories and we realize that some of these new category restrictions may impose additional constraints that may prohibit advertising content that is currently being permitted and advertised on RTA vehicles and properties.

Specifically, under the new policy advertising content that falls into one or more of the following categories will be prohibited in the RTA system based on inconsistency with the goals and objectives previously described (see Advertising Content Policy attachment):

- 1. Political or public issue content.**
- 2. Religious Content.**

3. **Obscene or Vulgar Content.**
4. **Unlawful, Unsafe or Disruptive Content.**
5. **False, Misleading, or Tortious Content.**
6. **Content Advertising Specified Goods or Services.**
  - a. Alcohol, or any material that depicts the consumption of alcoholic beverages or signs of excessive alcohol intoxication;
  - b. Firearms or non-firearm weapons;
  - c. Tobacco, or depictions of tobacco-related production, e-cigarettes, products that simulate smoking, or products that resemble tobacco products; or
  - d. "Adult"-oriented goods or services, including the use of brand names, trademarks, or slogans, for goods or services rated "X" or NC-17 by the Motion Picture Association of America ("MPAA"), adult books stores, adult video stores, nude dance clubs, adult telephone services, adult internet sites, or escort services.

Notwithstanding Item 6 above, depictions of tobacco products or alcohol consumption are permissible to the extent that the purposes of such depictions are non-commercial and are otherwise advancing a scientific, medical, journalistic, artistic or public health objective.

7. **Inappropriate, Offensive, or Violent Content.**
8. **Content against Best Business Interest.**

#### FINANCIAL IMPACT:

As the new Advertising Content Policy restricts advertising on all RTA vehicles and properties, we anticipate that an initial financial loss may be incurred once restrictions are imposed. However, we estimate this as a temporary condition and maintain that this new policy shall promote a better public image for the RTA by upholding our standards for advertisements displayed on our transit vehicles and properties. This higher standard will aid us in maximizing revenue and acquiring more qualified advertisers.

The current Exclusive Right to Market Advertising Space on RTA buses, streetcars and catenary poles Contract generates approximately \$1.2M dollars annually for the RTA. Based on our sales data, we anticipate that approximately 15-20% of our advertising sales could be impacted by this change in our content policy. Sales of advertisements to alcohol clients fluctuates seasonally going up during Mardi Gras and the annual festivals traditionally held in the city. Many popular festivals in Greater New Orleans have alcohol sponsors tagged on their advertising.

#### NEXT STEPS:

Based on the information received from the Board, the draft will be finalized and adopted by the RTA.

The Contractor will be allowed to honor contracts with existing advertising clients until the end of their current contract terms.

ATTACHMENTS:

See the attached Advertising Content Policy.

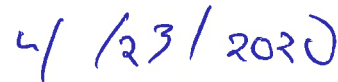
Prepared By: Angele Young Boutte, Director of Marketing and Communications

Reviewed By: Katherine Bush Felton, Chief of Staff



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Alex Wiggins  
Chief Executive Officer



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Date



## NEW ORLEANS REGIONAL TRANSIT AUTHORITY ADVERTISING CONTENT POLICY

### I. Purpose and Scope

The New Orleans Regional Transit Authority (“RTA”) endorses the principal that the sale of advertising space on designated RTA vehicles and venues is a practical and desirable means of generating additional agency revenue. The purpose of this policy is to establish acceptable advertising standards for internal and external display on RTA vehicles, property, transit shelters and all other passenger facilities, other designated locations, print publications, electronic messaging and other available opportunities.

Through this policy, the RTA, in keeping with its primary function as a provider of public transportation, is not creating and does not intend to create an open public forum or a designated public forum for public discourse, debate or expressive activity by accepting advertisements in and on transit vehicles, transit shelters, transit hubs or any other RTA property. In furtherance of the objectives described below, RTA shall retain control over the nature of advertisements accepted for posting in the RTA system, and maintain its advertising space as a nonpublic forum with limited content neutral subject matter restrictions. In addition, the nature of advertisements accepted are limited to those advertisements that promote and adhere to what the RTA has defined herein as an acceptable public image for the agency. In setting this policy, RTA seeks to meet the following goals and objectives:

- a) Maintain a secure and orderly operating environment;
- b) Maintain a safe and welcoming environment for all RTA passengers, including minors who use the RTA transit system, without regard to race, color, marital status, sexual orientation, religion, national origin, ancestry, age sex gender identity, disability, medical condition, or veteran’s status.
- c) Avoid claims of discrimination from the public;
- d) Avoiding unintentional appearance of favoritism, association with or bias towards any group, movement or viewpoint;
- e) Preserve the marketing potential of the advertising space by avoiding content that the community could view as inappropriate or harmful to the public;
- f) Increase advertising revenue to help support RTA service to the public;
- g) Avoid imposing demeaning or disparaging messages on a captive audience; and
- h) Reduce the diversion of resources from RTA objectives caused by controversy surrounding advertisements.

RTA retains the unqualified right to display, on or in its facilities, advertisements and notices that pertain to RTA operations and promotions, consistent with the provisions of its agreement with the Advertising Contractors. Promotions materials may include, but are not limited to,

internal marketing collateral, RTA branding campaigns and co-promotional campaigns with third parties. RTA does not accept free public service announcements.

RTA reserves the right, in all circumstances, to require that an advertisement in the RTA system include a disclaimer indicating that such advertising is paid for by the advertiser, stating that “The views expressed in this advertisement do not reflect the views of the RTA” or a similar statement. RTA may set minimum size standards for the disclaimer to ensure legibility.

## **II. Definitions, Meanings and Content Categories**

For the purpose of understanding the meaning of advertisements, RTA may refer to information beyond the advertisement including, but not limited to, dictionaries, reviews by authoritative bodies or public information regarding the advertiser. RTA shall assess whether an independent, reasonably prudent person, knowledgeable of RTA’s customer profile and using prevailing community standards, would believe that the advertisement complies with the provisions of this policy. In the case of advertisements that use multiple interpretations, all meanings – directly or implied – must comply with this policy.

### **A. Permitted Advertising Categories**

The RTA system is limited to only the following categories of advertising content:

1. **Commercial Advertising.** Paid communications from a for-profit entity or entities that propose a commercial transaction involving lawful goods and services.
2. **Governmental Advertising.** Paid communications from public entities created by government action with the intent to advance a specific government purpose as well as communications from RTA related to RTA programs, products, services or partnerships.
3. **Public Service Announcements.** Paid communications from any entity which promotes or furnishes any of the following goods or services:
  - a. The prevention or treatment of an illness, injury, condition, or syndrome recognized by the most recent Diagnostic and Statistical Manual (“DSM”) or the Centers for Disease Control “CDC”;
  - b. The recruitment or solicitation of participants for medical, psychological or behavioral studies;
  - c. Museums, theaters, or galleries which are open to the general public;
  - d. Licensed or accredited pre-K through 12 education programs or services;
  - e. Colleges or universities that have received regional or statewide accreditation;
  - f. Vocational or trade programs;
  - g. Visual or performing arts, fairs or festivals, provided that the venue or event is open to the general public and has a valid operating permit issued by a governmental entity;
  - h. Environmental matters;
  - i. Provision of services and programs that provide support to low income citizens, victims of abuse, families, youth, immigrants, historically disadvantaged

- populations, senior citizens, veterans, people identifying as LGBT or people with disabilities;
- j. Solicitation by broad-based contribution campaigns which provide funds to multiple charitable organizations;
- k. Diet or nutrition;
- l. Sporting events, sporting activities, or services related to sports;
- m. Travel Services, information or promotion;
- n. Licensed farmers markets, public botanical gardens or public parks;
- o. Commercial or professional trade organizations;
- p. Credit Unions, investment entities or financial services;
- q. Zoos, planetariums or aquariums;
- r. Governmentally funded public broadcast entities; or
- s. Government-designated historic sites.

## **B. Prohibited Advertising Categories**

Notwithstanding any provisions of this policy, advertising content that falls into one or more of the following categories is prohibited in the RTA system based in inconsistency with the goals and objectives described above:

1. **Political or public issue content.** Any material that, when viewed as a whole, can reasonably be regarded as directly:
  - a. Supporting or opposing a political party;
  - b. Supporting or opposing any political or judicial office holder;
  - c. Supporting or opposing a law, ordinance, regulation or proposed legislation;
  - d. Supporting or opposing a constitutional amendment or amendments;
  - e. Supporting or opposing an active governmental investigation;
  - f. Supporting or opposing ongoing civil litigation;
  - g. Supporting or opposing ongoing criminal prosecution;
  - h. Supporting or opposing a judicial ruling or rulings;
  - i. Supporting or opposing a strike, walkout, boycott, protest, divestment, embargo or groupings thereof;
  - j. Supporting or opposing the election of any candidate or group of candidates;
  - k. Supporting or opposing a policy or policies of a named or identified governmental business, or nonprofit entity other than the policies of the advertiser itself;
  - l. Supporting or opposing any foreign nation or group of nations or any policy of a foreign nation or group of nations other than the policies of the advertiser itself;
  - m. Depicting an image or images of one or more living political or judicial figures or depicting an image of one or more political or judicial figures that have died within the last five (5) years; or
  - n. Using slogans or symbols associated with any prohibited category within this policy.
  
2. **Religious Content.** Any material that, when viewed, can reasonably be regarded as directly:



- a. Promoting or opposing any religion, atheism, spiritual beliefs, or agnosticism, inclusive of images depicting religious iconography occupying 15% or more of any advertisement frame.
3. **Obscene or Vulgar Content.** Any material that, when viewed as a whole, can reasonably be regarded as using words, text symbols or images recognized by the community as extremely vulgar, indecent or profane for display in a public setting that includes minors.
4. **Unlawful, Unsafe or Disruptive Content.** Any material that depicts or when viewed as a whole can reasonably be regarded as encouraging or promoting any of the following:
  - a. The sale use, possession or distribution of goods and services that are unlawful;
  - b. A contest or contests that violate applicable law;
  - c. Unlawful or unsafe behavior;
  - d. Detrimental actions to the maintenance and safe operation of public transportation; or
  - e. Graffiti or vandalism.
5. **False, Misleading, or Tortious Content.** Any material that depicts or, when viewed as a whole, can reasonably be regarded as:
  - a. False or fraudulent;
  - b. Deceptive or misleading;
  - c. Copyright, trademark or patent infringement;
  - d. Constituting a tort of libel, trade libel, public disclosure of private facts, intrusion into private matters, misappropriation of a person's name or likeness, or a depiction in a false light; or
  - e. RTA graphics, logos or representations without the express written consent of RTA, or which implies or declares an endorsement by RTA, its directors, management or employees, of any service, product or point of view, without prior written authorization by RTA.
6. **Content Advertising Specified Goods or Services.** Any material that directly advertises any of the following categories of goods and services:
  - a. Alcohol, or any material that depicts the consumption of alcoholic beverages or signs of excessive alcohol intoxication;
  - b. Firearms or non-firearm weapons;
  - c. Tobacco, or depictions of tobacco-related production, e-cigarettes, products that simulate smoking, or products that resemble tobacco products; or
  - d. "Adult"-oriented goods or services, including the use of brand names, trademarks, or slogans, for goods or services rated "X" or NC-17 by the Motion Picture Association of America ("MPAA"), adult books stores, adult video stores, nude dance clubs, adult telephone services, adult internet sites, or escort services.

Notwithstanding Item 6 above, depictions of tobacco products or alcohol consumption are permissible to the extent that the purposes of such depictions are non-commercial and are otherwise advancing a scientific, medical, journalistic, artistic or public health objective.

7. **Inappropriate, Offensive, or Violent Content.** Any material that when viewed as a whole, can reasonably be regarded as depicting or describing any of the following:
- a. A graphic or realistic dead, mutilated or disfigured human body or bodies;
  - b. A graphic or realistic human body part or body parts in a state of mutilation, dismemberment, decomposition or disfigurement;
  - c. A fetus or fetuses in a state of mutilation, dismemberment, decomposition or disfigurement;
  - d. Human or animal excrement, vomit, or graphic depictions of blood or viscera;
  - e. An act of animal abuse.
  - f. The act of killing, mutilating, or disfiguring human beings or animals;
  - g. Genocide, mass-murder, or war crimes recognized under the laws and customs of war;
  - h. Weapons or violent implements, if either appear to be aimed or pointed at the viewer;
  - i. Images of firearms, non-firearm weapons, or threatening sharp-edged devices in the foreground of an image or occupying 15% or more of any advertisement image or frame.
  - j. Graphic violence or graphic sexual harassment;
  - k. Denigrating public transportation or the mission of RTA
  - l. Graphic images that under contemporary community standards, would be reasonably considered extremely frightening to minors or the elderly; or
  - m. Material that is insulting, degrading, disparaging, demeaning or disrespectful; or material that belittles or is dismissive of genocide, war crimes, or slavery that is so objectionable under contemporary community standards as to make it reasonably foreseeable that the material will result in harm to (including loss of ridership), disruption of, or interference with the transportation system.
8. **Content against Best Business Interest.** RTA is a public transportation authority and seeks to promote public transportation in all that it does. Furthermore, in the providing the citizens of the greater New Orleans area with public transportation, RTA seeks to do so in a safe, reliable and efficient manner without losing sight of the fact that as an agency of the State of Louisiana it must be a good steward of public money.

### **III. Policy Enforcement**

RTA may from time to time select “Advertising Contractors” who shall be responsible for the daily administration of RTA’s advertising programs, in a manner consistent with this policy and with the terms and conditions of their agreements with RTA. The Chief Executive Officer of RTA is authorized to designate a “contract administrator” to be the primary contact for the Advertising Contractors on issues related to advertising content. The Advertising contractor shall comply with this policy and shall review all advertising with reference to them.

Said Advertising Contractor will ensure that all mediums of promotion, including but not limited to bus wraps, bus shelter signage and billboards do not create sight barriers that poses enhanced traffic risks.

This policy shall be effective upon adoption and shall be enforced to the degree that it does not impair the obligations of any executed contract. RTA reserves the right, from time to time, to suspend, modify, or revoke the application of any part of these guidelines as it deems necessary to comply with legal mandates, facilitate its primary transportation function, to ensure the safety or security of RTA customers, RTA employees and RTA facilities. All provisions of this policy shall be deemed severable.

RTA may amend this rule as required to conform to applicable changes in law or deemed in the public's best interest. The Chief Executive Officer of RTA is authorized to develop and implement procedures, forms, guidelines and other tools as necessary to carry out the administration of this policy.

APPROVED:

Resolution Number:

Date:



Flozell Daniels  
Board Chairman



Alex Wiggins  
Chief Executive Officer