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Press Release

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IMMEDIATE

MTA Board Revises Advertising Standards

At its regularly scheduled meeting today, the MTA Board modified the MTA's Advertising Standards, which were last addressed by the Board in 1997.

The modification was prompted by a recent federal court decision that determined that MTA's "no demeaning standard"—a standard that had prohibited ads containing "images or information that demean an individual or group of individuals on account of race, color, religion, national origin, ancestry, gender, age, disability or sexual orientation"—was unconstitutional.

In determining how best to respond to the court's decision, the MTA considered limiting the use of ad spaces in and on buses, subways, trains and stations across the board to ads of a commercial nature. However, many board members believed that ad space in our transportation system, in addition to serving as a very important source of supplemental revenues to support transportation, should continue to serve as a vehicle for a wide variety of communications, including ads of a non-commercial nature that express viewpoints on matters of public concern.

Accordingly, the MTA Board has decided to continue its policy of permitting both commercial and noncommercial advertisements, including ads expressing viewpoints on issues of the day. Of course, paid viewpoint ads contain the views of their sponsors, and we want to make sure that our customers do not confuse them with expression of MTA's views. To underscore the point, our revised advertising policy will require sponsors who submit viewpoint ads on political, religious or moral issues or related matters to include a disclaimer on each such ad that makes this clear. Each such ad will be required to prominently include this disclaimer:

This is a paid advertisement sponsored by [Sponsor]. The display of this advertisement does not imply MTA's endorsement of any views expressed.

To be clear, the MTA does not believe the First Amendment compels the MTA to open up its ad spaces in this way to a wide range of expressive communications. MTA could, for example, adopt a narrower commercially oriented ad policy, one that limited the range of ads it will display to those selling a product or service, and by doing so, avoid having to run demeaning or divisive ads such as the AFDI ad that resulted in litigation. But the MTA for decades has permitted its ad spaces to serve a broader communicative function than mere commercial advertising, and the Board, today reaffirms that tradition of tolerating a wide spectrum of types of ads, including ads that express views on a wide range of public matters.

With that choice also come First Amendment limitations that constrain the MTA's ability to disallow particular ads because their messages are uncivil or divisive. We had thought this did not mean having to run divisive ads that demeaned others, but the recent litigation tells us otherwise. A cost of opening our ad space to a variety of viewpoints on matters of public concern is that we cannot readily close that space to certain advertisements on account of their expression of divisive or even venomous messages.

We deplore such hate messages and remain hopeful that the vast majority of advertisers in our buses, subways, trains and stations will remain responsible and respectful of their audiences. And when, as there inevitably will be, a very few sponsors of ads stray from civility, we have every confidence that our customers will understand that in our enlightened civil democracy, the answer to distasteful and uncivil speech is more, and more civilized, speech.