

Metro Transit Advertising Standards

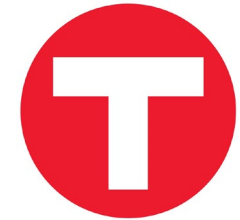
Legal Background



October 2025 – George N. Henry – Acting Deputy General Counsel

Overview

Metro Transit Advertising Standards



1. Legal Background

- a. Relevant Caselaw

- b. First Amendment Standards of Review

2. Current Advertising Standards

3. Key Considerations for Update

Who Can Advertise on Transit?

HARRY J. LEHMAN IS OLD FASHIONED!

ABOUT HONESTY, INTEGRITY
AND GOOD GOVERNMENT

State Representative — District 56 () Harry J. Lehman

*Lehman v. City of
Shaker Heights,*
418 U.S. 298 (1974)

Credit: Flickr, public domain





Bill of Rights

Congress of the United States,
begun and held at the City of New York, on
Wednesday, the fourth of March, one thousand seven hundred and eighty nine.

THE Convention of a number of the States having, at the time of their adoption, inserted in their Constitutions, as part of a declaration of rights, provisions or abuse of it, power, those former declarations and resolutions should be nullified. The Convention has agreed upon a resolution which will have the effect of annulling all such former declarations and resolutions.

RESOLVED, by the Senate and House of Representatives of the United States of America in Congress assembled, two thirds of both Houses concurring, That the following Article be proposed to the Legislatures of the several States, as Amendments to the Constitution of the United States; all or any of which articles when ratified by three fourths of the said Legislatures, to be valid to all intents and purposes, as part of the said Constitution. D^y

ARTICLES in addition to, and amendment of the Constitution of the United States of America, proposed by Congress, and ratified by the Legislatures of the several States, pursuant to the fifth Article of the original Constitution.

Article the first. After the first enumeration required by the first Article of the Constitution, there shall be one Representative for every thirty thousand persons; until the number shall amount to one hundred, after which the proportion shall be so regulated by Congress, that there shall be not less than one hundred Representatives, nor less than one Representative for every forty thousand persons; until the number of Representatives shall amount to two hundred, after which the proportion shall be so regulated by Congress, that there shall not be less than two hundred Representatives, nor more than one Representative for every fifty thousand persons.

Which be second. • Below, saying the compensation for the services of the Senators and Representatives shall take effect, until an election of Representatives shall have intervened.

Article the third. Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the Government for a redress of grievances.

Under the fourth. A well regulated Militia, being necessary to the security of a free State, the right of the people to keep and bear arms, shall not be infringed.

the right of the people to remove in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, and no warrants shall issue, but upon probable cause, supported by oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized.

Article the second. No person shall be held to answer for a capital, or otherwise infamous crime, unless on a presentment or indictment of a grand jury, except in cases arising in the land or naval forces, or in the militia, when in actual service in time of War or public danger: nor shall any person be subject for the same offense to be twice put in jeopardy of life or limb.

property of life or limb; nor shall be compelled in any criminal case, to be a witness against himself, nor be deprived of life, liberty, or property, without due

property of laws, nor shall private property be taken for public use without just compensation.

Article the eighth. In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial by an impartial jury of the State and district wherein the crime shall have been

remitted, which should shall have been previously ascertained by law, and to be informed of the nature and cause of accusation; to be confronted with the witnesses against him; to have compulsory process for obtaining witnesses in his favor, and to have the assistance of counsel for his defense.

Article 11. Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That when the value in currency shall exceed twenty dollars, the right of issue by any shall be preserved, and no part, paid by a party, shall be

Slaves are considered ... by Court of the United States, than according to the rules of the common law.
 "And the Judge said, 'I require but shall not be required, nor require force imposed, nor cruel and unusual punishments inflicted'."

Wm. Adams, Vice-President of the United States, and President of the Senate.

Page 11 *Outline Sketches of the South.*

First Amendment:

Congress shall make no law . . .
abridging the freedom of speech

14th Amendment:

No State shall . . . deprive any person of life, **liberty**, or property, **without due process of law**

Public Forum Doctrine

Three Types of Government-Controlled Space

1. Traditional & Designated Public Forums

- Parks, Streets, Sidewalks, City-Owned Theaters

2. Limited Public Forums

- Council Meetings, Social Media, Interior of City Hall

3. Nonpublic Forums

- Military bases, government employee offices, interior of polling places

Traditional or Designated Public Forum



Standard of Court Review

- Reasonable time, place, and manner restrictions
- Restrictions based on content – strict scrutiny
 - Narrowly tailored to a compelling government interest
- Viewpoint restrictions are prohibited

Public Transit is a Nonpublic Forum

Lehman v. City of Shaker Heights

- Primary governmental purpose to provide a service
- Administrative Challenges
 - “lurking doubts about favoritism”
 - “sticky administrative problems . . . in parceling out limited space to eager politicians”
- A Captive Audience
 - “the right of the commuters to be free from forced intrusions on their privacy”



Nonpublic Forum



Standard of Court Review

- Deference to the Government Agency
 - “must not be arbitrary, capricious, or invidious.”
 - “regulation on speech is reasonable and not an effort to suppress expression merely because public officials oppose the speaker’s view.”
- Reasonable objectives of minimizing:
 - abuse
 - the appearance of favoritism
 - the risk of imposing on a captive audience

Minnesota Voters Alliance v. Mansky, 585 U.S. 1 (2018)
Lehman v. City of Shaker Heights, 418 U.S. 298 (1974)

Advertising Standards

Criteria

- Focus on Purpose: Revenue
- Remain Neutral
- Preference for Clear Lines
- Respect the Captive Audience





Advertising Standards Background

Michael Schommer, Director of Strategic Communications & Engagement

Advertising Standards Background

System Advertising At A Glance

- Advertising coordinated through contract with Intersection
- Annual revenue of \$5.7 million (and growing)
- Assets include interior and exterior vehicle signage, parking facilities, bus shelters, light rail platforms and stations, as well as other system facilities
- Categories of advertisers include:
 - Metro Transit (recruiting, brand awareness, project updates, etc.)
 - Commercial advertisers
 - Government advertisers
 - Public service announcements and nonprofit advertisers



Advertising Standards Background

Existing standards have been in place since 2015

“Placing reasonable limits on Permitted Advertising displayed on its Council Transit Assets will enable the Council to:

- a) avoid subjecting its passengers and other members of the public to material that may cause them embarrassment or discomfort and discourage them from using regional transit services;
- b) maintain an image of professionalism and decorum;
- c) avoid displaying material that is not suitable for viewing by minors who ride on Metro Transit buses, light rail vehicles or commuter rail coaches, or whose neighborhoods are served by Metro Transit bus routes, and light rail transit and commuter lines, or other Council transit services; and
- d) maximize revenues by attracting and maintaining the patronage of passengers.”

Advertising Standards Background

Key Considerations for Update

1. Setting clear, consistent guidelines
 - Example: Get-Out-The-Vote Ads
2. Prioritizing brand and customer experience
3. Providing access for community advertisers
4. Maximizing revenue opportunities



Discussion and Questions



Thank You!

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