

T Transportation Committee

Meeting date: May 14, 2007

ADVISORY INFORMATION

Date:	May 7, 2007
Subject:	Policies and Standards for Advertising on Metro Transit Facilities
District(s), Member(s):	All
Policy/Legal Reference:	Minn. Stat. § 473.405, subd. 1
Staff Prepared/Presented:	Brian Lamb, General Manager, 612-349-7510 Julie Johanson, Assistant General Manager, 612-349-7514 Bruce Howard, Director of Marketing, 612-349-7694 Dave Theisen, Associate General Counsel, 651-602-1706
Division/Department:	Metro Transit / Marketing

Proposed Action/Motion

That the Committee recommend the Metropolitan Council: (1) designate advertising space on its buses, light rail vehicles and other Metro Transit facilities as a nonpublic forum; and (2) approve the attached proposed *Policies and Standards for Advertising on Metro Transit Facilities*.

Issue(s)

Should the Council designate advertising space on its buses, light rail vehicles and other Metro Transit facilities a nonpublic forum, and place reasonable limits on the types of advertising the Council will permit on its Metro Transit buses, light rail vehicles and other transit facilities?

Overview and Funding

Like many public transit authorities, the Council makes advertising space available on its buses, light rail vehicles and other transit facilities to generate revenue and help fund the regional transit system. The advertising is subject to certain policies and standards. Last fall staff started reviewing the advertising policies and standards because they had not been considered by the Council since September 1995.

At its December 13, 2006 meeting, the Council authorized a contract with Titan Worldwide for the purpose of selling advertising on Metro Transit buses, trains, platform kiosks and other properties “provided, however, that the terms of the contract to be entered into shall explicitly allow the Council, at its discretion, to modify its advertising policy and standards at any time during the contract term.” The Council is guaranteed a minimum of \$20 million over the five-year term of the contract.

Council staff reviewed advertising policies from other large transit authorities, researched the legal (constitutional) aspects of advertising regulation, reviewed industry materials, and consulted with Titan Worldwide staff and legal counsel. The proposed policies and standards consist of four sections: (1) purpose statements; (2) advertising policies; (3) advertising standards and restrictions; and (4) an appeals process.

(1) Purpose Statements

The purpose statements outline why certain types of advertising are not permitted on Metro Transit facilities and describe the rationale for the standards with which permitted advertising must comply. The proposed policies and standards are intended to help ensure the Council can generate revenue to supplement fare revenue and other income that fund the operation of its regional transit system.

Advertising space on Metro Transit facilities currently is a “designated public forum” because the existing advertising policies and standards do not exclude political campaign materials or other advertising that relates to debate on matters of public concern. Speech that occurs in a public forum generally cannot be regulated or controlled. However, unlike public parks, streets and sidewalks, transit buses, trains and stations historically have not been public forums for First Amendment (freedom of speech) purposes unless the transit authorities purposefully made them a public forum by allowing or accepting political campaign material and other advertising on political matters.

The proposed policies and standards are intended to help insulate the Council and its Metro Transit division from controversy that frequently accompanies “speech” on matters of public concern. Adoption of these proposed policies and standards would change advertising space on Metro Transit facilities from a designated public forum to a nonpublic forum. The fiscal impact of this change should be minimal. According to advertising revenue figures compiled by Titan Worldwide, political campaign advertising generated only \$12,000 in advertising revenue during calendar years 2005 and 2006 and the first two months of 2007; the political campaign advertising occurred in 2006.

(2) Advertising Policies

The proposed policies declare that “advertising space on Metro Transit facilities is a nonpublic forum” and state that the Council “therefore will not accept political or ‘issues’ advertising of any kind.” The other types of “Excluded Advertising” (alcohol, tobacco and advertising that adversely affects the Council or its Metro Transit division) are covered by similar provisions in the Council’s existing policies.

Section 2.03 is a proposed new policy that addresses safety, maintenance and operational issues associated with Metro Transit buses, light rail vehicles and light rail passenger platforms.

(3) Advertising Standards and Restrictions

The proposed advertising standards are viewpoint-neutral standards that apply to all advertising on Metro Transit buses, light rail vehicles and other facilities. The proposed standards are similar to the Council’s existing advertising standards but attempt to provide more detail and guidance to Metro Transit staff, the Council’s advertising contractor and potential advertisers. The standards describe the types of advertising images and messages that will not be accepted for display on Metro Transit facilities.

(4) Appeal of Advertising Decisions

This section establishes an appeal process that will help resolve issues that may arise when an advertiser’s proposed advertisement is not accepted for display on Metro Transit buses, light rail vehicles and other transit facilities.

Previous Consideration

The proposed advertising policies and standards were presented as an informational item at the Transportation Committee’s April 23 meeting. Minor changes to the April 23 discussion draft were made in response to questions, comments and suggestions from Council Members and Titan’s legal counsel. Those changes are shown in redline format.