FEDERAL ELECTION COMMISSION
Washington, DC

STATEMENT OF CHAIRMAN ALLEN J. DICKERSON
REGARDING ADVISORY OPINION 2022-10 (SPRINKLE)

At the Commission's July 28, 2022 open meeting, we considered an advisory opinion request from Platform Venture Studio, Inc. (d/b/a Sprinkle) regarding its proposed web-based contribution platform. That product would provide contribution processing services to users seeking to give to political campaigns and, as part of these services, would display data from publicly available campaign finance reports filed with the Commission.[1]

I voted to oppose Sprinkle's request. To be clear, I agree with my colleagues that Sprinkle's services would not result in prohibited in-kind corporate contributions.[2] Companies that process contributions as a service to contributors, without receiving compensation from the recipient political committees, are not making contributions because the contribution-processing services in question are not being provided to the recipient political committees.[3]

I believe, however, that Sprinkle's proposed use of Commission data to supplement its services to contributors is clearly prohibited by the Act and our regulations. As I have said in the past,[4] our governing statute is clear: 52 U.S.C. § 30111(a)(4) states that information copied from disclosure reports "may not be sold or used by any person for the purpose of soliciting contributions *or for commercial purposes*, other than using the name and address of any political committee to solicit contributions from such committee."[5] The regulation implementing that statutory provision, codified at 11 C.F.R. § 104.15, is also straightforward:

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[1] Advisory Op. Request 2022-10 (Sprinkle) at 6.

[2] *See* 52 U.S.C. § 30118(a) (generally prohibiting corporations from making contributions); 11 C.F.R. § 114.2(b) (same). Corporations may, however, make contributions to nonconnected political committees that make only independent expenditures, *see, e.g.*, *Citizens United v. FEC*, 558 U.S. 310 (2010); *SpeechNow.org v. FEC*, 599 F.3d 686 (D.C. Cir. 2010) (en banc), and to non-contribution accounts of hybrid political committees, *see* FEC Statement on Carey v. FEC: Reporting Guidance for Political Committees that Maintain a Non-Contribution Account (Oct. 6, 2011), https://www.fec.gov/updates/fec-statement-on-carey-v-fec.

[3] *See, e.g.*, Advisory Op. 2021-07 (PACMS) at 6–7; Advisory Op. 2019-04 (Prytany) at 5–6; Advisory Op. 2017-06 (Stein and Gottlieb) at 4–5; Advisory Op. 2016-08 (eBundler.com) at 6–8; Advisory Op. 2015-15 (WeSupportThat.com) at 4; Advisory Op. 2014-07 (Crowdpac) at 6; Advisory Op. 2012-22 (skimmerhat) at 4–6; Advisory Op. 2011-19 (GivingSphere) at 7; Advisory Op. 2011-06 (Democracy Engine) at 5.

[4] Statement of Vice Chair Allen Dickerson Regarding Advisory Opinion 2021-01 (Aluminate, Inc.) (June 14, 2021).

[5] Emphasis added.

it states explicitly that "information ... filed under the Act, shall not be sold or used by any person for the purpose of soliciting contributions or for any commercial purpose, except that the name and address of any political committee may be used to solicit contributions from such committee."

The rule against surplusage—a fundamental principle of statutory interpretation—instructs that each word and clause of a statute must be given operative effect, and none should be ignored.[6] Here, there is no dispute that Sprinkle's proposal has a commercial purpose, and commercial activity that makes use of "aggregated data"—even data that does not "allow users or others to access identifiable information about any particular donor or enable political committees or others to engage in fundraising activity"[7]—is still commercial activity. Here, by effectively ignoring the words "or for commercial purposes," the Commission fails to give full effect to the plain language of the Act.

While individuals and entities may rely on our previous advisory opinions in planning their activities and defending themselves against administrative complaints, I continue to oppose efforts to expand our administrative exception to the Act's ban on the commercial use of data from reports filed with the Commission. That project was begun in error, and it continues to shortchange the privacy interests of ordinary Americans compelled by law to reveal their political associations to the Commission.[8]

August 16, 2022
Date

Allen J. Dickerson
Chairman

[6] *See* Antonin Scalia & Bryan A. Garner, READING LAW: THE INTERPRETATION OF LEGAL TEXTS 174 (2012); *see also TRW Inc. v. Andrews*, 534 U.S. 19, 31 (2001) ("It is 'a cardinal principle of statutory construction' that 'a statute ought, upon the whole, to be so construed that, if it can be prevented, no clause, sentence, or word shall be superfluous, void, or insignificant'" (quoting *Duncan v. Walker*, 533 U.S. 167, 174 (2001)).

[7] Advisory Op. Request 2022-10 (Sprinkle) at 6.

[8] The Supreme Court has found that "compelled disclosure, in itself, can seriously infringe upon privacy of association and belief guaranteed by the First Amendment." *Buckley v. Valeo*, 424 U.S. 1, 64 (1976); *see also Gibson v. Fla. Leg. Investigation Comm.*, 372 U.S. 539, 544 (1963) ("This Court has recognized the vital relationship between freedom to associate and privacy in one's associations. Inviolability of privacy in group association may in many circumstances be indispensable to preservation of freedom of association, particularly where a group espouses dissident beliefs."); *NAACP v. Ala.*, 357 U.S. 449, 462 (1958) (same).