



Information Item

Date: August 14, 2012

To: Mayor and City Council
From: Edward F. King, Director of Transit Services
Subject: Big Blue Bus Transit Advertising Program Guidelines

Introduction

The Big Blue Bus has been operating its own advertising sales program since 2001, selling advertising space on buses to a variety of clients, generating a revenue stream that supports transit services. Recently, AIDS Walk LA approached BBB to request advertising space for AIDS Walk, a non-commercial entity. Citing the Transit Advertising Program Guidelines, BBB advised AIDS Walk LA that these guidelines only allow sales to commercial entities. This item summarizes the Transit Advertising Program Guidelines.

Background

Since 2001, the Big Blue Bus has been operating its own advertising sales program, selling advertising space on buses to a variety of clients, generating a revenue stream that supports transit services. Council's action circa 2002, enabling direct sales of advertising space on buses, included approval to continue BBB's long established Transit Advertising Program Guidelines (Exhibit A).

The Transit Advertising Program Guidelines restrict licensing of advertisement space for commercial advertising only. Commercial advertising is specifically defined as one that has as its primary purpose the promotion of a product for sale or a service for hire by the public generally. Given this limitation, permitted advertisements could not include political speech, including but not limited to an advertisement implying a position for or against any political candidate, public issue or subject; and/or other noncommercial advertisement or noncommercial speech. In addition, the Guidelines also prohibit

advertisements promoting alcohol or tobacco products; false, misleading, or deceptive advertisements; advertisements that promote illegal activity or which advocate violence or crime; and advertisements that infringe upon any copyright, patent, or service mark.

The reason that the Guidelines prohibit non-commercial speech is that authorizing non-commercial speech could cause the BBB bus advertising space to be classified as a public forum by the courts, which would severely limit the City's ability to exercise content control.

Discussion

In July 2012, AIDS Walk Los Angeles staff met with staff from the City Manager's Office, City Attorney's Office and the Big Blue Bus requesting a review of the advertising policy to determine whether BBB can accept advertisements for AIDS Walk LA. During this meeting, staff explained the limitations imposed by the Advertising Guidelines, while acknowledging that BBB staff has not always consistently administered the policy with respect to AIDS Walk Los Angeles and other non-profit advertisements. Since 2011, in an effort to align advertising sales practices with program guidelines, BBB staff has consistently denied all requests for noncommercial advertising. This timing comports with the City Attorney's Office standardizing BBB advertising contracts. Subsequently, all successful advertisement sales agreements are negotiated and entered into through the standardized contracts with BBB's Advertising Program Guidelines attached as an exhibit to the contract.

After meeting with AIDS Walk Los Angeles, BBB staff conducted a brief survey of counterpart transit agencies in the region to determine whether BBB Advertising Guidelines are similar amongst like agencies. The Los Angeles County Metropolitan Transportation Authority and the City of Glendale, similar to BBB, only allow commercial advertisement sales. This information was conveyed to AIDS Walk Los Angeles staff along with an affirmation of BBB's advertising guidelines.

Summary

The Transit Advertising Program Guidelines attached as Exhibit A are in effect and appended to each BBB advertising sales agreement. Accordingly, advertisements from AIDS Walk and other non-commercial entities will not appear on any Big Blue Bus.

Prepared By: Edward F. King, Director of Transit Services

Attachment: Exhibit A - Transit Advertising Program Guidelines

EXHIBIT A
ADVERTISING GUIDELINES

The City may change these advertising guidelines at any time and without notice to Advertiser. Advertiser may contact the Advertising Coordinator to obtain the current advertising guidelines.

The Advertising Coordinator only licenses advertising space for commercial advertisements. A commercial advertisement has as its primary purpose the promotion of a product for sale or a service for hire by the public generally.

The Advertising Coordinator cannot license advertising space for any prohibited advertisements. An advertisement is prohibited if it meets one or more of the following criteria:

1. Causes the vehicle, if posted individually or in combination with other advertisements, to become a public forum for the dissemination, debate, or discussion of any such issues;
2. Is not a commercial advertisement;
3. Contains false, misleading or deceptive information;
4. Contains material that is explicitly sexual, obscene, or harmful to minors as those terms as defined in California Penal Code section 311;
5. Advocates, promotes or incites violence or illegal activity;
6. Ridicules, derides, embarrasses, or defames any individual, group of individuals, or entity;
7. Contains language that presents a clear and present danger of causing any riot, disorder, or other imminent threat to public safety, peace or order;
8. Contains any direct or indirect promotion of the sale or use of alcoholic beverages, tobacco or firearms;
9. Interferes with safe and efficient provision of public transportation service; or
10. Violates any copyright or other intellectual property right.