

To: Public Disclosure Commission – An Agency of Washington State

From: William J. (Bill) Bangs, II (wjbangs@gmail.com)

Subject: Second Public Comment at the Regular Commission Meeting - February 23, 2023

This is a supplement to my Public Comment provided on February 11, 2023. Thank you again for your efforts to allow the public to “follow the money,” and to ensure that “the public has the right to know who is contributing to election campaigns” (legislative findings to RCW 42.17A.350).

If I receive a campaign advertising flyer in the mail on November 5, three days before an election, I naively assume that the Top 5 Contributors identified on the flyer, are, in fact, the Top 5. I would have no reason to believe that the printing of that flyer was ordered on October 1, say, and that many of the flyers (including the one I received) sat in a box waiting to be mailed for nearly a month. At the grocery store, I inspect the “Packed Date” to know that what I am buying is not stale. Data and Information also become stale, that is, “impaired in legal effect or force by reason of not being used, acted upon, or demanded in a timely fashion.” (www.dictionary.findlaw.com/definition/stale.html; accessed on 2/15/23)

I believe that a re-interpretation of a **political advertisement’s point in time of publishing** may be appropriate to ensure freshness of political advertisements subject to RCW 42.17A.350. Of course, the top 5 contributors will change with time but the “point in time” when an advertisement must contain accurate information is “**the date on which the advertisement is published or otherwise presented to the public.**” (WAC 390-18-020(2)).

The plain and legal language definition of “publish” is “to disseminate to the public.” (See *Merriam-Webster’s Dictionary of Law* ©1996) The key word is “disseminate” (to spread widely). That is, printing is not publishing. The WAC phrasing “published or otherwise presented to the public” suggests that same intent: an advertisement is not published until it is disseminated (or spread or presented) to the public. Note that “disseminated” is a key word in RCW 9.04.05 on false, misleading, and deceptive advertising (a section that unfortunately appears not to apply to political campaigns).

I recommend you consider the following, especially item #2.

1. All published advertising media (print & online) should clearly show the date of publication.
2. For print media, the date “published” should be no earlier than the date of physical posting in a public space or than the date of posting with the U.S. Mail. (I.e., the “postmark” date). Records of such posting dates should be kept by the campaigns for later verification.
3. For online media, the date “published” should be considered to be no later than the most recent date of user access. (Note that modern reference practice is to cite an online source as “accessed on m/d/y).) Campaigns should update the information on their webpages within a reasonable period of time – perhaps more frequently as the election nears.

Respectfully submitted this 15th day of February 2023,

