

ADVERTISEMENT DISCLAIMERS

This chapter addresses common issues relating to political mailings and other advertisements that are nonmonetary contributions to a committee. For information on disclaimers for political ads that are independent expenditures see Campaign Manual 6 for guidance.

A. Ads Prepared by Others

Candidate ads: The Act does not require major donors to be identified in a disclaimer when the ad is prepared by a candidate.

Ballot measure ads: The Act requires committees primarily formed for a ballot measure to specifically identify in a disclaimer on the ad the top two contributors of \$50,000 or more. As a major donor, your name may appear in advertisements placed by a ballot measure committee.

B. Ballot Measure Ads Prepared by a Major Donor

The following information addresses the disclaimers required if a major donor prepares a political ad that has been coordinated with a ballot measure committee. Payments for these ads (nonmonetary contributions) are reported on campaign statements by both the major donor and the ballot measure committee.

Quick Tip

A major donor making independent expenditures to support or oppose a candidate must be identified in a disclaimer. See Manual 6.

Ex 3.1 – A corporation paid \$40,000 for a mass mailing to voters stating “Vote for Measure J.” Since the communication expressly advocates support for a clearly-identified measure and the corporation coordinated the mailing with the committee, the communication is a nonmonetary contribution and also requires identification of the corporation on the mailing as described in the following pages.

What is the Disclaimer?

“Paid for by *[major donor name]*” is the basic disclaimer on most campaign communications. The disclaimer is required on the following:

- Mass mailings
- Paid telephone calls
- Radio ads
- Television ads
- Electronic media ads
- Newspaper ads
- Billboards
- Yard signs
- Door hangers
- Flyers

How Must the Disclaimer Appear?

Disclaimers on political ads must be clear and conspicuous so as to be understood by the public. Written disclaimers must be printed clearly and legibly. Spoken disclaimers must be clearly audible and intelligible. Specific requirements for color contrast, print font size, and time appearing on screen are provided on the following chart. Disclaimers must also be written or spoken in the same language used in the advertisement.

The address of the major donor must appear on printed mass mailings; on all other communications only the name of the major donor is required after the words “paid for by.”

When a major donor is required to be identified in a mass mailing or other advertisement, the legal name of the individual or entity must be disclosed. For example, “ABC Corporation” or “Dr. Jane Sommer,” and not “Business for Growth” or “Doctors Who Care.”

The FPPC’s regulatory authority ensures that the payor of the ad is identified. The Act does not regulate the truth or accuracy of the content of political communications given the broad First Amendment protection for political speech.

Is there a penalty for not including the proper disclaimer?

Yes. The penalty for failing to comply is a fine of up to \$5,000 per violation. In addition, any person who violates the disclaimer requirements may be liable for a fine of up to three times the cost of the advertisement, including placement costs.

Political Advertising Disclaimers – Ballot Measure Ads

The disclaimer must include, unless otherwise noted: “Paid for by [committee name]”

Example:

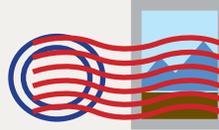
- “This call was paid for by ABC Corporation”

Communication	Manner of Display
All mass mailings (more than 200) (see note on next page)	<ul style="list-style-type: none">• Committee name/address (on file with Form 410) on outside of mailing in no less than 14-point, bold, sans serif type/contrasting print color• “Paid for by” must be in the same color and font as the committee name/address and immediately in front of or above the name/address
Telephone calls (more than 200) - made by vendors (“robo” calls) or paid individuals	<ul style="list-style-type: none">• Disclaimer must state the call is “paid for by” committee name• Must be at least 3 seconds at beginning or end of call
Radio	<ul style="list-style-type: none">• Must be at least 3 seconds either at beginning or end of the ad• Ad which is 15 seconds or less requires only highest contributor
Television	<ul style="list-style-type: none">• Both written & spoken at the beginning or end of ad• Not less than 4 seconds• Size & contrasting color must be legible to the average viewer• Ad which is 15 seconds or less requires only highest contributor• Exception - no spoken disclosure required if written statement is shown for at least 5 seconds on a 30 second broadcast or 10 seconds on a 60 second broadcast

Communication	Manner of Display
<p>Electronic Media</p> <ol style="list-style-type: none"> Websites, blast emails, Facebook posts Ads of limited size (micro bar, button ad, ads limited to 500 characters or less) SMS texts Electronic ads sent in an audio format Electronic ads sent in a video format 	<ol style="list-style-type: none"> Disclaimer statement must be in the same font size as majority of text and displayed conspicuously near the ad Ad must provide disclaimer via rollover, link, or other connection to website with the disclaimer Include the committee ID number and if technically possible link to the committee's campaign statement on Secretary of State's website Same requirements as for radio ads above Same requirements as for television ads above
<p>Paid spokesperson in ballot measure ad</p> <ul style="list-style-type: none"> \$5,000 payment to individual in ad Any payment to individual in ad portraying a member of a licensed occupation (nurse, doctor, firefighter, scientist, engineer, lawyer, etc.) who is not actually a member of that occupation. <p>If the individual is actually a member of the occupation portrayed, the committee may omit this disclaimer and shall maintain documentation of the individual's license or certification for the occupation.</p>	<ul style="list-style-type: none"> Disclaimer: "(Spokesperson's name) is being paid by this campaign or its donors." Disclaimer: "Persons portraying members of an occupation in this advertisement are compensated spokespersons not necessarily employed in those occupations." Printed or televised ad: shown continuously in highly visible Roman font Radio broadcast or phone message: spoken in clearly audible format
<p>Newspaper Ads</p>	<ul style="list-style-type: none"> 14-point, bold, sans serif type in contrasting print color Ad which is 20 square inches or less requires only highest major contributor Also check the Elections Code
<p>Yard Signs (more than 200) Billboards</p>	<ul style="list-style-type: none"> 5% of height of ad in contrasting color
<p>Door hangers, flyers, posters, and oversized campaign buttons and bumper stickers (buttons 10" across or larger and stickers 60 sq. in. or larger) (more than 200)</p>	<ul style="list-style-type: none"> 14-point, bold, sans serif type in contrasting print color Ad which is 20 square inches or less requires only highest major contributor

Note: Two display rules exist for mass mailings. A mass mailing must have the committee name and address on the outside of the envelope in 6 pt type, while the manner of display for the ad disclaimer requires the committee name in no less than 14-point, bold, sans serif type. A one-page mailer may combine the display rules with both the committee name and address in no less than 14- point, bold, sans serif type although the address may be at 6 pt type.

Paid for by ABC Company
123 Elm Street
Elmton, CA 95523



Fred Jones
7200 Oak St
Oakville, CA 92253

**Quick
Tip**

Mass mailings include emails.

From: ABCCompany@emailaddress.web
To: Voter@emailaddress.web
Cc:
Subject: Vote for Smith for Senate

The following message is paid for by ABC Company, 123 Elm Street, Elmton, CA 95523

C. Candidate Advertisements Prepared by a Major Donor

A major donor who prepares an advertisement that is coordinated with a state or local candidate is making a nonmonetary contribution to the candidate's committee and the payment must be reported by both the major donor and the candidate. If the advertisement is a mass mailing, the major donor must be identified on the outside of the envelope after the words "paid for by." Emails of more than 200 must also identify the major donor.

Candidate Calls

The name of the major donor must be identified when a major donor pays the costs associated with telephone calls of 500 or more and the message expressly advocates support or opposition of a candidate. The disclaimer is required whether the call is made by electronic means or by an individual. Exceptions:

- the message states that the call is authorized by the candidate; or
- the telephone calls are actually made by the candidate, candidate's manager or volunteers.

D. Valuing a Mailing and Personal Websites

Multiple Candidates/Measures: If a mass mailing (including emails) supports or opposes more than one candidate or measure, the fair market value attributable to each may be calculated by prorating the costs based on the amount of space allotted to each candidate or measure supported or opposed in the mailing.

Political and Non-Political Material: The cost of a mailing containing both express advocacy supporting or opposing a ballot measure or candidate as well as non-political material may be prorated. Costs directly associated with the political message are reportable, including staff time of more than 10 percent in a calendar month.

Individual Internet Activity: An individual who is not being paid by a campaign sends communications that expressly advocate a candidate or measure over the Internet, such as emails, social networking, blogging, website postings, and hyperlinks, does not incur reporting obligations.

Communications Identifying State Candidates (No Express Advocacy)

A major donor committee that makes a payment or promise of payment totaling \$50,000 or more for a communication that 1) clearly identifies a state candidate; but 2) does not expressly advocate the election or defeat of the candidate; and 3) is disseminated, broadcast, or otherwise published within 45 days of an election, is required to file Form E-530. (See Chapter 4.) These payments are not required to be reported on the major donor committee campaign statement (Form 461).

Ex 3.2 – If a candidate’s neighbor sends emails to his family and friends and posts on his personal social networking site support of the campaign, the communications are not reportable even though the candidate may have provided the neighbor with campaign materials. However, an electronic communication is a contribution or expenditure if an individual receives compensation for the messages and a majority of his or her advertisement revenue is from a single candidate or committee.

Ex 3.3 – One month before a state general election, a major donor pays for several billboard ads that state: “Assemblymember Jones, thank you for supporting AB 1010, low cost prescriptions for seniors!” A Form E-530 must be filed.

Answering Your Questions

A. If we pay for a mass mailing that was coordinated with a candidate, must we be identified on the mailing?

Yes. If more than 200 pieces of the same or substantially similar mail are sent in a calendar month, the name and address of the major donor paying for the mailing must appear somewhere on the outside of the mailing in no less than six-point type and in a color that contrasts with the background (e.g., no white on white).

B. If we decide to produce a broadcast expressly asking voters to vote for a candidate without coordinating with the candidate, are there identification requirements?

Yes. The name of the major donor paying for the advertisement must be presented in a clear and conspicuous manner, including broadcast information appropriately conveyed to the hearing impaired. In addition, a statement that the broadcast was not authorized by the candidate is required.

C. If my company sends more than 200 emails to customers supporting a ballot measure, and this mailing is an independent expenditure, are there any identification requirements?

Yes. The name of the major donor sending the electronic messages must be presented in a clear and conspicuous manner.

D. Could we be identified on any communications we are not responsible for producing?

Yes. If contributions totaling \$50,000 or more are made to a primarily formed ballot measure committee, the name of the major contributor must be included in the primarily formed committee's advertisements if the major contributor is one of the two highest contributors to the committee. However, only the highest major contributor must be identified in any advertisement that is an electronic broadcast of 15 seconds or less, or a newspaper, magazine, or other public print media advertisement that is 20 square inches or less.

Authority

The following Government Code sections and Title 2 regulations provide authority for the information in this chapter:

Government Code Sections

- 82015 Contribution.
- 82031 Independent Expenditure.
- 82041.5 Mass Mailing.
- 84305 Requirements for Mass Mailing.
- 84310 Identification Requirements for Telephone Calls.
- 84501 Advertisement.
- 84503 Disclaimer; Ballot Measure Ads.
- 84504 Ballot Measure Committee Name.
- 84505 Avoidance of Disclosure.
- 84506 Disclaimer; Independent Expenditures; Advertisements.
- 84506.5 Disclaimer; Independent Expenditure Ads; Not Authorized by Candidate.
- 84507 Disclaimer; Legible and Audible.
- 84508 Disclaimer; Small Ad.
- 84511 Ballot Measure Ads; Paid Spokesperson Disclosure.
- 85310 Communications Identifying State Candidates.

Title 2 Regulations

- 18215.2 Uncompensated Internet Activity by Individuals that is not a Contribution or Expenditure.
- 18225 Expenditure.
- 18225.7 Made at the Behest of.
- 18435 Definition of Mass Mailing and Sender.
- 18440. Telephone Advocacy.
- 18450.1 Definitions. Advertisement Disclosure.
- 18450.4 Contents of Disclosure Statements. Advertisement Disclosure.
- 18450.11 Spokesperson Disclosure.
- 18531.10 Communications Identifying State Candidates.
- 18550.1 Independent and Coordinated Expenditures.