

Appendix B – Updated TTC Policy 13.1.2 Advertising on TTC Property (proposed)

13.1.2 Advertising on TTC Property Policy

1.0 RESPONSIBILITY

Head - Marketing and Customer Experience

2.0 PURPOSE

To establish the criteria for the acceptability of Advertisements for posting on TTC Property and the process by which Advertisements will be reviewed and accepted.

3.0 OBJECTIVE

- 3.1 The Canadian Charter of Rights and Freedoms (the “Charter”) guarantees everyone the rights and freedoms set out therein, including the right to freedom of expression. In a 2009 court decision, the Supreme Court of Canada ruled that a public transit agency (like the TTC) is subject to the Charter in its role as the host of advertising. If the TTC chooses to accept advertising on TTC Property, it must not limit the expression of an Advertiser by refusing an Advertisement except as permitted under Section 1 and/or 2(b) of the Charter, as applicable.
- 3.2 The limitations on the content of an Advertisement set out in this policy must be viewed in the context of the TTC’s limited legal ability to deny an Advertisement under the Charter, as provided by clause 3.1, while also ensuring that it continues to provide a safe and welcoming public transit system.
- 3.3 This policy sets out the decision-making process and responsibility with respect to the acceptability and removal of Advertisements on TTC property. The TTC Board reserves the right to review any Advertisement to determine whether it complies with the requirements as set out in this policy.

4.0 DEFINITIONS

The following definitions apply within the context of advertising on TTC Property.

- 4.1 **Advertiser**
The entity requesting from the Company to post Advertisement(s) on TTC Property.
- 4.2 **Advertisement**
Any message (the content of which is controlled by the Advertiser), or proposed message, with the intent to influence TTC riders’ choice, opinion, or behaviour, which message is posted (or is to be posted), and includes Advocacy Advertisements and Election Signs.

- 4.3 **Advocacy Advertisement**
An Advertisement which presents information or a point-of-view that attempts to influence public opinion on specific political, economic, social, or environmental issues. **[Added environmental]**
- 4.4 **Applicable Laws**
Any federal, provincial or municipal law, rule, statute, regulation, by-law (including City of Toronto by-laws), order, ordinance, protocol, policy, notice, direction, judgment, or other requirement issued by any government, board, commission or tribunal, or any court or regulation-making entity, or regulatory authority having jurisdiction over advertising. Applicable laws shall include TTC policies. For greater clarity, Applicable laws include the Ontario Human Rights Code and the Competition Act (Canada). **[Added Competition Act (Canada)]**
- 4.5 **ARP**
Refers to the TTC Advertising Review Panel. The ARP is made up of TTC staff whose role it is to review Advertisements in accordance with Sections 6 and 7 of this policy.
- 4.6 **ASC**
Refers to Advertising Standards Canada. ASC is the not-for-profit Canadian advertising industry body committed to creating and maintaining community confidence in advertising and to ensuring the integrity and viability of advertising through industry self-regulation. **[Edited paragraph to reflect current nomenclature as well as specify the Ad Standards Code]**
- 4.7 **ASC Code**
Refers to the Canadian Code of Advertising Standards. The ASC Code is the advertising industry's principal instrument of advertising self-regulation in Canada administered by ASC. The ASC Code sets the criteria for acceptable advertising and forms the basis upon which advertising is evaluated in response to consumer, trade, or special interest group complaints. **[Edited to reflect the code's new acronym.]**
- 4.8 **Company**
The entity which has contracted with the TTC for the right to sell Advertising space on TTC Property for the purpose of posting Advertisements.
- 4.9 **Election Signs**
As defined in Chapter 693 of the City of Toronto Municipal Code.

- 4.10 TTC Property
All lands, facilities, structures, stations, and vehicles owned, leased, occupied, or maintained by the TTC, including platform video screens.

5.0 PROCESS FOR ADVERTISEMENT POSTING ON TTC PROPERTY

- 5.1 The Advertiser is to deal directly with the Company.
- 5.2 The Company is responsible for interpreting and implementing this policy. The Company shall accept and post any Advertisement that meets the guidelines for acceptance in accordance with this policy.
- 5.3 Any Advertisement with reference to public transit and/or the TTC must be presented by the Advertiser to the Company for review and acceptance prior to the production of the Advertisement. The Company shall forward the Advertisement to TTC staff for further review and acceptance.

6.0 REVIEW

- 6.1 If, in the opinion of the Company, an Advertisement does not comply with the guidelines for acceptance under this policy, the Company shall forward the Advertisement to TTC staff. TTC staff shall review the Advertisement and determine whether the Advertisement complies with the guidelines for acceptance under this policy. If TTC staff determines that the Advertisement does not comply with the guidelines for acceptance under this policy, the Advertisement shall not be permitted to be posted on TTC Property and the Company will be so advised. The Company shall advise the Advertiser accordingly.
- 6.2 In the event TTC staff determines that an Advertisement does not comply with the Guidelines for Acceptance as set out in Section 8 of this policy, the Advertiser may request, through the Company, a review by ARP of the TTC staff decision. ARP shall review the decision of TTC staff for determination as to whether TTC staff properly applied this policy.
- 6.3 A review by TTC staff and ARP under this policy shall be in accordance with the prevailing advertising review process and in the context of the objective of providing a safe, reliable, accessible and inclusive public transit system. **[Edited to include reliable, accessible and inclusive, and removed welcoming.]**

7.0 COMPLAINTS

- 7.1 A person wishing to make a complaint about an Advertisement posted on TTC Property may file the complaint with ASC at www.adstandards.com. Should the TTC receive a complaint of an Advertisement posted on TTC Property, the TTC shall direct the complainant to file the complaint with ASC at www.adstandards.com. **[Edited to update acronym.]**
- 7.2 In the event that ASC determines that a complaint is not within its mandate to investigate, the complaint shall be referred to ARP for review to determine whether the Advertisement at issue complies with the Guidelines for Acceptance as set out in Section 8 of this policy.
- 7.3 The TTC shall have the right to reject, remove, or to have the Company remove, any Advertisement from TTC Property at no cost to the TTC.

8.0 GUIDELINES FOR ACCEPTANCE

- 8.1 Any Advertisement must meet all of the following:
 - 8.1.1 Comply with Applicable Laws.
 - 8.1.2 Comply with the ASC Code.
 - 8.1.3 Comply with any rule, procedure, by-law, or code of any professional regulatory body.
 - 8.1.4 Comply with the Objective as set out in Section 3 of this policy.
 - 8.1.5 Not discredit the business or service of public transit, the TTC or its employees, nor have an adverse effect on the image of the TTC, or public transit, as a safe, efficient, accessible and reliable form of transportation, nor contravene TTC policies.
[Added efficient, accessible and not contravene TTC policies]
 - [Added 8.1.6, 8.1.7 and 8.1.8]**
 - 8.1.6 If the Advertisement makes a representation to the public in the form of a statement, warranty or guarantee of a product's benefits, as an example for protecting or restoring the environment or mitigating the environmental, social, and ecological causes or effects of climate change, the statement must be based on an adequate and proper test, the proof of which lies on the Advertiser and such proof must be provided to the Company prior to approval of the Advertisement and must comply with any Competition Bureau Canada Guidelines on Environmental claims.

8.1.7 If the Advertisement makes a representation to the public with respect to the benefits of a business or business activity, as an example for protecting or restoring the environment or mitigating the environmental and ecological causes or effects of climate change, the statement must be based on adequate and proper substantiation in accordance with internationally recognized methodology, and such proof must be provided to the Company prior to the approval of the Advertisement and must comply with any Competition Bureau Canada Guidelines on Environmental claims.

8.1.8 For any Advertisement referenced in 8.1.6 or 8.1.7 above, TTC reserves the right, at its sole discretion, and as a condition to its approval, to require the Advertiser to indemnify the TTC against any costs or damages from their Advertisement being challenged under the federal *Competition Act*.

8.2 The Advertiser is responsible to satisfy itself that the Advertisement complies with Applicable Laws.

8.3 As part of any review or complaint, the TTC, ARP, or ASC, as applicable, may consider information contained in the Advertisement including logos, website addresses and referenced websites, the content of the website addresses and the referenced websites, and the background and history of the Advertiser and any other entity referenced in the Advertisement.

9.0 REFERENCE SOURCES

- The Canadian Code of Advertising Standards
- City of Toronto Municipal Code and By-laws
- Ontario Human Rights Code