

# Transit Advertising and the First Amendment



Aaron Weinstein, Chief Marketing Officer  
San Francisco Bay Area Rapid Transit  
March 1, 2011

# BART Ad Content Policy



- The First Amendment guides our practice
- Ads are reviewed without regard to point of view

## First Amendment:

“**Congress shall make no law** respecting an establishment of religion, or prohibiting the free exercise thereof; or **abridging the freedom of speech**, or of the press; or the right of the people peaceably to assemble, and to petition the Government for a redress of grievances.”

# Point of View Ad - Accepted



**Be on our side.**  
We are the side of peace and justice.

Palestinian  
designer



Israeli  
social  
worker

**End U.S. military aid to Israel.**  
[www.TwoPeoplesOneFuture.org](http://www.TwoPeoplesOneFuture.org)

Advertisement paid for by the Committee for a Just Peace in Israel and Palestine

# Point of View Ad - Rejected



STOP PALESTINIAN TERRORISM



PEACE MUST BE TAUGHT  
SAYYES TO PEACE.ORG

Advertisement paid for by StandWithUs

Disparages an ethnic group

Displays weapons

# Point of View Ad – Accepted, then Rejected



Disparages an ethnic group

# Point of View Ad - Accepted



[www.change.org/petitions/tell-bart-to-take-down-anti-palestine-ads](http://www.change.org/petitions/tell-bart-to-take-down-anti-palestine-ads)

Thank you for your comment. As you may know, BART ordered a recent advertisement removed from this same organization because it contained a reference to "Palestinian Terrorism." We were able to order removal of the ad because it could be commonly interpreted in a way that is generally "Disparaging or Demeaning" to Palestinian people as a whole. BART does not have the same latitude with the new ad because its stance critical of political leaders is protected as free speech. The right of organizations to communicate their viewpoints has been long recognized by the Courts, so our ability to order removal of the ad is constrained. See *Maldonado v. Kempton*, 422 F. Supp. 2d 1169 (N.D. Cal. 2006).

Once again, thank you for writing to us. We are sorry that the ad is offensive to you, and will remove it ASAP when the contract period expires next week.

# Commercial Ad – Withdrawn by Sponsor



I have seen this ad on BART trains for weeks and found it offensive at first glance. Especially after the Tucson gun rampage, it takes on a chilling new meaning. I'm originally from the DC area and am the child of federal employees. I have a Master of Public Administration degree and greatly revere the often thankless work performed by fellow public administrators around the country. I don't find it cute or humorous to even joke about shooting public servants- I didn't before Tucson, and I especially don't after this tragedy.

I'm asking that you help me ensure that this offensive Taxbrain.com ad is pulled from all BART trains and stations immediately.