

BEFORE THE FEDERAL ELECTION COMMISSION
Washington, D.C.

In re

**MICHAEL BLOOMBERG,
BLOOMBERG L.P.,
BLOOMBERG NEWS, and
MIKE BLOOMBERG 2020, INC.,¹**

Respondents.

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) Matter Under Review No. _____
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COMPLAINT

“Quite honestly, I don’t want the reporters I’m paying to write a bad story about me.
I don’t want them to be independent.”

– Michael Bloomberg, 2018²

This Complaint alleges that Michael Bloomberg, a candidate for president, is engaged in knowing and willful violations of federal campaign finance law, through his use of his personally owned media empire, to influence a federal election in support of his own candidacy and in opposition to the Trump campaign.

Specifically, the Complaint alleges that Bloomberg News, through its current and continuing massive coordinated in-kind corporate contribution to the presidential campaign of its founder, Michael Bloomberg (“Mr. Bloomberg”), violates the source prohibitions of 52 U.S.C. § 30118(b). The Complaint further alleges that Mr. Bloomberg is facilitating those on-going and future contributions in violation of the soft money prohibitions of 11 C.F.R. § 300.61 and the ban on corporate facilitation, 11 C.F.R. § 114.2; and Mike Bloomberg 2020, Inc. (the “Bloomberg Committee”) violated 52 U.S.C. § 30118(b), as the recipient of these prohibited and unreported contributions.

For the reasons that follow, Complainant urges the Commission to find reason to believe that Respondents have violated applicable provisions of the Federal Election Campaign Act of 1971, as amended, 52 U.S.C. § 30101 et seq. (the “Act”), investigate the matter to determine the scope of the violations, order the Respondents to pay a civil penalty as provided by law, order

¹ Statement of Organization, <https://docquery.fec.gov/cgi-bin/forms/C00728154/1364477/>.

² “Mike Bloomberg Says He’ll Sell His Media Company If He Runs for President (Audio),” <https://www.thewrap.com/mike-bloomberg-says-hell-sell-his-media-company-if-he-runs-for-president/>.

Respondents to cease and desist from further violations, and determine that Bloomberg News no longer is entitled to the media exemption in connection with its reporting on the 2020 presidential election.

Facts and Background

Bloomberg News is a division of Bloomberg L.P. Mr. Bloomberg is its founder and owner.

According to Bloomberg L.P.'s most recent "Impact Report," Bloomberg News "is a leading multi-platform global business and financial media company, reaching more than 80 million consumers. Powered by Bloomberg journalists and analysts, *we break news, analyze data, share perspectives and tell the stories leaders need to know.*"³ One of Bloomberg News' "Guiding Principles" is to "Follow the money. Explaining the role of money in all its forms—from capital flow to executive compensation to the cost of an acquisition *to election spending*—reveals the meaning of the news."⁴ Another is that "[n]ames make news," and that "[t]he bigger the name, the bigger the audience."⁵ Touting its adherence to "the Five Fs," Bloomberg's "Guiding Principles" conclude: "We strive to be the most Factual word on any topic, the First to report the news and the Fastest to report the details. We should also be the Final word—or the most definitive source—on major events as well as the Future word that tells our audience what's next."⁶

On November 21, 2019, the Bloomberg Committee registered with the Commission as Mr. Bloomberg's principal authorized campaign committee. On November 24, 2019, Mr. Bloomberg announced his candidacy for President. Immediately, Bloomberg News abandoned its Guiding Principles.

In a widely reported and publicly acknowledged memo,⁷ Bloomberg News Editor in Chief John Micklethwait admitted that "our owner is now a candidate,"⁸ and declared that Bloomberg News would report on the 2020 presidential campaign, but that it would not investigate Mayor Bloomberg and the other Democrat candidates, their families or their

³ <https://data.bloomberglp.com/company/sites/48/2019/04/Impact-Report-WEB.pdf> (emphasis added).

⁴ <https://data.bloomberglp.com/company/sites/39/2018/04/2017-Appendix.pdf> (emphasis added).

⁵ *Id.*

⁶ *Id.*

⁷ Exhibit 1, <https://assets.documentcloud.org/documents/6558539/Bb-Complete.pdf>

⁸ "Bloomberg News will not investigate Mike Bloomberg or his Democratic rivals during primary," <https://www.cnbc.com/2019/11/24/bloomberg-news-will-not-investigate-mike-bloomberg-or-his-democratic-rivals-during-primary.html>.

finances—but that it would, however, continue to investigate Republican President Donald J. Trump, his family and their finances.⁹

Legal Framework

The Act of course generally prohibits a corporation from making an expenditure in connection with a federal election.¹⁰ The Act, however, exempts from the definition of expenditure “any news story, commentary, or editorial distributed through the facilities of any broadcasting station, newspaper, magazine, or other periodical publication, *unless such facilities are owned or controlled by any political party, political committee or candidate.*”¹¹ This provision is known as “the media exemption.”

When determining whether an entity is entitled to the media exemption, the Commission and courts ask first whether the entity is controlled by a candidate, party or political committee, and then whether it is acting as a media entity in conducting the activity.¹² Commission regulations further establish that a media entity under the ownership or control of a candidate cannot claim the media exemption as to opinion and editorial content, and that its news coverage is entitled to the media exemption only when it publishes “a news story: (a) [t]hat represents *a bona fide news account* communicated in a publication of general circulation or on a licensed broadcasting facility; and (b) [t]hat is *part of a general pattern* of campaign-related news accounts that give *reasonably equal coverage to all opposing candidates.*”¹³

⁹ During the pendency of Mr. Bloomberg’s campaign, Bloomberg News apparently will not publish editorial or opinion content concerning the 2020 presidential election. “How Michael Bloomberg’s presidential campaign harms journalism,” <https://www.latimes.com/business/story/2019-11-24/bloomberg-news-coverage-presidential-race> (“The core of the Bloomberg policy is a near-complete shutdown of editorial commentary on the presidential election. Several members of the organization’s editorial board will take a leave of absence and join the campaign. The board itself is being suspended, ‘so there will be no unsigned editorials.’ Individual columnists will continue to write, and op-eds from outsiders accepted, ‘although not op-eds on the election.’ Obviously that punches a big hole in the analytical component of Bloomberg News.”).

¹⁰ 52 U.S.C. § 30118(b).

¹¹ 52 U.S.C. § 30101(9)(b) (emphasis added); *see also* 11 C.F.R. §§ 100.72 (extending the exemption to contributions as well as expenditures), 100.132 (extending the exemption to websites, Internet and electronic publications).

¹² *FEC v. Phillips Publishing, Inc.*, 517 F. Supp. 1308, 1313 (D.D.C. 1981); *Readers Digest Ass’n, Inc. v. FEC*, 509 F. Supp. 1210, 1214 (S.D.N.Y. 1981); *see also* Adv. Op. 2010-08 (Citizens United) (Commission applies Readers Digest test when determining entitlement to media exemption).

¹³ 11 C.F.R. §§ 100.72, 100.132 (emphasis added); *see also FEC v. Massachusetts Citizens for Life*, 479 U.S. 238, 250-51 (1986) (entity is acting as a media entity when it publishes a news story in the ordinary course of its regular press activities).

Furthermore, a federal candidate may not solicit, direct, accept, or receive money outside of the limitations and prohibitions of the Act. 11 C.F.R. § 300.62.

Commission regulations further prohibit the corporate facilitation of contributions. 11 C.F.R. § 114.2(f):

Corporations and labor organizations (including officers, directors or other representatives acting as agents of corporations and labor organizations) are prohibited from facilitating the making of contributions to candidates or political committees, other than to the separate segregated funds of the corporations and labor organizations. Facilitation means using corporate or labor organization resources or facilities to engage in fundraising activities in connection with any federal election, such as activities which go beyond the limited exemptions set forth in 11 CFR part 100, subparts B and C, part 100, subparts D and E, 114.9(a) through (c) and 114.13. A corporation does not facilitate the making of a contribution to a candidate or political committee if it provides goods or services in the ordinary course of its business as a commercial vendor in accordance with 11 CFR part 116 at the usual and normal charge.

Analysis

To begin, Mr. Bloomberg, a candidate for President, owns Bloomberg L.P. and its division, Bloomberg News.¹⁴ Therefore, Bloomberg News is not entitled to the media exemption for any opinion and editorial content it publishes in connection with the 2020 presidential election, and is entitled to the exemption for its news reporting only if a story is a “bona fide news account” that is “*part of a general pattern of campaign-related news accounts that give reasonably equal coverage to all opposing candidates.*”¹⁵

¹⁴ Statement of Candidacy of Michael Bloomberg, <https://docquery.fec.gov/cgi-bin/forms/P00014530/1364469/>; “Michael Bloomberg Creating Leadership Succession Plan for His Company,” <https://www.wsj.com/articles/michael-bloomberg-creating-leadership-succession-plan-for-his-company-1457382366> (Mr. Bloomberg owns 89% of Bloomberg L.P.’s stock); “Bloomberg News will not investigate owner or his Democratic rivals,” <https://thehill.com/homenews/campaign/471844-bloomberg-will-not-investigate-owner-or-his-democratic-rivals-report> (“[O]ur owner is now a candidate.”).

¹⁵ 11 C.F.R. § 100.132 (“*Any cost incurred in covering or carrying a news story, commentary, or editorial by any broadcasting station (including a cable television operator, programmer or producer), Web site, newspaper, magazine, or other periodical publication, including any Internet or electronic publication, is not an expenditure unless the facility is owned or controlled by any political party, political committee, or candidate, in which case the cost for a news story: (a) That represents a bona fide news account communicated in a publication of general circulation or on a licensed broadcasting facility; and (b) That is part of a general pattern of campaign-related news account that give reasonably equal coverage to all opposing candidates in the circulation or listening area, is not an expenditure.*”) (emphasis added).

Bloomberg News, however, has completely abdicated its role as a legitimate media entity in its coverage of the 2020 presidential campaign. Bloomberg News purports to “break news, analyze data, share perspectives and tell the stories leaders need to know.” It claims to strive to be the “first to report the news . . . the fastest to report the details . . . and the final word—or the most definitive source—on major events.” Its “guiding principles” include “the bigger the name, the bigger the audience.” And yet, when it comes to the major event of the 2020 presidential campaign, Bloomberg News will not investigate one of the biggest names of all, that of its namesake. Instead, it will investigate just one candidate—President Trump. In blatant violation of its own principles, it will not dig into, for instance, Mr. Bloomberg’s own election spending. If it receives a tip about any one of the numerous Democrat candidates, Bloomberg News will not be the first to report that news or the fastest to report the details. It will wait for others to break the news, and then its reporters will retweet them, while those same reporters continue their original investigations of President Trump, his children and their success.

An organization that spends millions and millions of dollars in unregulated, undisclosed soft money to create content about an election and pledges to unload it all against a single candidate is not a media entity. It is a Super PAC. And in this case, that Super PAC is literally owned by a candidate.

Faced with this embarrassing dereliction of journalistic duty, Bloomberg News attempts to hide amidst a parade of ruses. It cites its historical refusal to engage in investigative reporting on Mr. Bloomberg, and pretends merely to follow that policy into the current presidential campaign. That claim, of course, ignores Bloomberg News’ pattern of investigative reporting to date on the other 27 current and former Democrat candidates—a pattern which it now has had to break in order to justify the kid-glove treatment it plans to afford to its founder. It also attempts to draw a distinction between the Mr. Bloomberg and the other Democrat candidates on the one hand, and the Republican President on the other, claiming that Mr. Bloomberg is not yet opposing candidate Trump because he has yet to win the Democrat Party’s nomination. That claim, however, is belied by Mr. Bloomberg himself, who declared on his campaign website that “I’m running for president to defeat Donald Trump.”¹⁶

Lastly, Bloomberg News complains that this is all just really hard. According to Mr. Micklethwait, “There is no point in trying to claim that covering this presidential campaign will be easy for a newsroom that has built up its reputation for independence in part by not writing about ourselves.”¹⁷ But Mr. Bloomberg debases that complaint, too. “I happen to believe, in my heart of hearts, you can’t be independent and nobody’s going to believe that you’re

¹⁶ “Michael Bloomberg launches campaign for President,” <https://www.politico.com/news/2019/11/24/michael-bloomberg-campaign-2020-president-073271>; *see also* video embedded at <https://twitter.com/kendallkarson/status/1198596749230784518>, in which the narrator intones, “and now he’s taking on him” as a picture of President Trump displays on the screen.

¹⁷ “Bloomberg News Sets Out How It Will Cover Its Owner,” <https://www.nytimes.com/2019/11/24/business/bloomberg-media-presidential-campaign.html>.

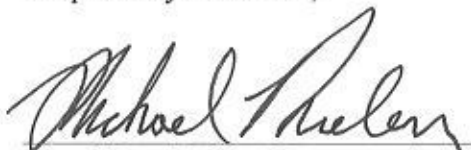
independent,” he has admitted, offering several solutions—including selling the company or abstaining from all political news coverage.¹⁸

Conclusion

Either of the solutions Mr. Bloomberg proposed last year, or perhaps one of several others, would have been better than what Bloomberg News has decided to do. It will remain owned by a candidate and will continue to cover that candidate’s campaign and those of his rivals, but it will not investigate him or any of the other rivals, except for the one rival he says he’s running against, the President. This breaks with Bloomberg News’ pattern of campaign-related news accounts that, until recently, gave reasonably equal coverage to all opposing candidates—and renders Bloomberg News ineligible for the media exemption.

Accordingly, Bloomberg News’ coverage of the 2020 presidential election constitutes an expenditure. As a corporate entity, Bloomberg News generally may make expenditures independently (if properly reported), but may not do so in coordination with any candidate, candidate’s campaign or agent thereof.¹⁹ And yet, the timing of Mr. Bloomberg’s entry into the presidential campaign and Bloomberg News’ announcement of its new election coverage policy strongly suggests that Mr. Bloomberg himself procured and facilitated the policy to the great benefit of his own campaign.

Respectfully submitted,



Republican National Lawyers Association, by
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¹⁸ “Mike Bloomberg Says He’ll Sell His Media Company If He Runs for President (Audio),” <https://www.thewrap.com/mike-bloomberg-says-hell-sell-his-media-company-if-he-runs-for-president/>.

¹⁹ Even if Bloomberg News or Bloomberg, L.P. are not treated by the Commission as corporate entities, the entity and any campaign contributed to would be subject to the Act’s reporting requirements. Therefore, we further allege, that if the Bloomberg entities are, in fact, partnerships, the Act and Commission regulations regarding the reporting, the making, and receipt of contributions have been, and will be, violated.

VERIFICATION

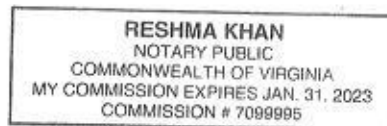
Complainant below verifies that the statements made in this complaint are, upon their information and belief, true. Sworn pursuant to 18 U.S.C. § 1001.

FOR: Republican National Lawyers Association



Michael Thielen
Executive Director

Sworn to and subscribed before me this 10th day of December 2019.



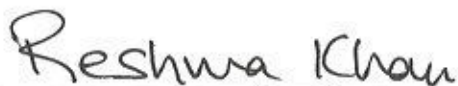

Notary Public, State of VA,
County of Fairfax
My commission expires: Jan 31, 2023

EXHIBIT 1:

So Mike is running.

There is no point in trying to claim that covering this presidential campaign will be easy for a newsroom that has built up its reputation for independence in part by not writing about ourselves (and very rarely about our direct competitors). No previous presidential candidate has owned a journalistic organization of this size. We have electoral laws to follow - to do with both balance and opinion. We will certainly obey them, but I think we need to do more than just that - and I believe we can. So this is how we will proceed.

We are not going to follow an exhaustive rulebook. That is partly because I believe that in journalism you "show" your virtue, you don't "tell" it. You prove your independence by what you write and broadcast, rather than by proclaiming the details in advance. And I am loath to tie our hands at this stage. We cannot predict every detail of the future: we will have to make some decisions on a case-by-case basis. But we can follow some basic principles, and we will make a few organizational changes.

The place where Mike has had the most contact with Editorial is Bloomberg Opinion: our editorials have reflected his views. David Shipley, Tim O'Brien and some members of the Board responsible for those editorials will take a leave of absence to join Mike's campaign. We will suspend the Board, so there will be no unsigned editorials. Our columnists, who produce the majority of Bloomberg Opinion's content, will continue to speak for themselves, and we will continue to take some op-ed articles from outsiders (although not op-eds on the election). Bloomberg Opinion will be led by Bob Burgess, with Reto being the main overseer on the Editorial Management Committee.

On News, we will write about virtually all aspects of this presidential contest in much the same way as we have done so far. We will describe who is winning and who is losing. We will look at policies and their consequences. We will carry polls, we will interview candidates and we will track their campaigns, including Mike's. We have already assigned a reporter to follow his campaign (just as we did when Mike was in City Hall). And in the stories we write on the presidential contest, we will make clear that our owner is now a candidate.

That covers the vast majority of what this newsroom does. We will continue our tradition of not investigating Mike (and his family and foundation) and we will extend the same policy to his rivals in the Democratic primaries. We cannot treat Mike's Democratic competitors differently from him. If other credible journalistic institutions publish investigative work on Mike or the other Democratic candidates, we will either publish those articles in full, or summarize them for our readers - and we will not hide them. For the moment, our P&I team will continue to investigate the Trump administration, as the government of the day. If Mike is chosen as the Democratic presidential candidate (and Donald Trump emerges as the Republican one), we will reassess how we do that.

To those who would rather that we did not write about Mike at all, I would reply that Bloomberg News has handled these conflicts before - and proved our independence. We are following the same policy that we have applied to Bloomberg LP and our direct rivals in the financial markets and media: we report on but do not investigate Reuters and CNBC. When Mike ran for mayor, we reported on the facts of his campaign and summarized other articles.

So those are the principles that we will follow. They are broad - and so there will be decisions to be made at the margin. That is what editors are for. And that leads to an organizational change, designed to add even more managerial clout.

Our news coverage of the 2020 race will be run on a day-to-day basis by Wes Kosova, Craig Gordon and our team in Washington, DC. If questions arise, we have Laura Zelenko's Standards team to call on.

But I have asked Marty Schenker, our Chief Content Officer who works alongside Reto and myself on the Editorial Management Committee, to take special responsibility for overseeing our news coverage of Mike and his rivals (and the questions that may occur about

this election all the way round the world), in the same way that Reto will oversee Opinion. We may well have to make quick decisions across many platforms. Marty has covered every election since Watergate; we need his experience and judgment, even if responsibility for any mistakes we make ultimately rests with me.

Given the workload this will involve, I have asked Heather Harris to take on Marty's responsibilities as Chief Content Officer for EMEA and APAC – and she will join Reto, Marty and me on our management committee.

I think this is a structure that can cope with many eventualities. No doubt, many of you are already thinking of possible complexities that may arise. My response is: let's get back to work. We can spend a long time debating "what ifs". I would rather that we got on with the journalism and let that speak for itself. So write, blog, broadcast - and the rest will take care of itself.

John

Via <https://twitter.com/oliverdarcy>.