

Communication from Public

Name:

Date Submitted: 07/11/2023 03:04 PM

Council File No: 22-0392

Comments for Public Posting: I urge the City Council to reject the proposed Transportation Communication Network (TCN) ordinance for the legal and monetary reasons below. Before a billboard ban went into effect in 2022, the City of Los Angeles (LA) had to assign several lawyers just for billboard related litigation. This litigation was a significant expense, especially when the billboard company won its case and LA had to pay for their litigation costs. Also, LA only has limited control over billboards because of first amendment rights and not being able to select which entities get sign rights. In the past, litigation required LA to allow a greater number of billboards than intended. Approving the TCN ordinance will create a new land designation, “a non- contiguous Supplemental Use District.” Given the breadth of the TCN exception to a billboard ban, allowing the ordinance will effectively end the new billboard ban and open LA to years of litigation and loss of control over how many and where billboards are placed. Additionally, LA currently only allows parcels over a certain size to apply for a Supplemental Use District, which allows the adoption of zoning laws that vary from neighboring properties. The TCN zoning proposal would apply different zoning laws to dozens of publicly owned properties with varying characteristics. The idea that neighboring property owners would not demand similar rights is highly unlikely. Furthermore, the TCN Supplemental Use Districts could result in claims of illegal discriminatory “spot zoning.” If some current billboards are no longer allowed because of the concentration of billboards on property owned by the regional transportation authority, it could result in additional expenses for paying billboard companies and the land owners who rent the space for billboards compensation for loss of revenue. Finally, the provision in the TCN allowing billboards on property which is not commercially zoned will violate state and federal law designed to implement the Federal Highway Beautification Act. Also, many of the proposed billboards are on publicly owned property currently zoned for Public Facilities (PF) and thus would violate federal sign law and never qualify for Caltrans permits. Adoption of the Transportation Communication Network ordinance would be a mistake and cost the City of Los Angeles far more than any revenue from the billboards. Thus, the ordinance needs to be rejected. Thank you,

Ann Dorsey Northridge, CA 91325

Communication from Public

Name: Mark Baker

Date Submitted: 07/11/2023 09:28 PM

Council File No: 22-0392

Comments for Public Posting: Dear Los Angeles City Council, Please find attached our public comments regarding the lack of FDA approval for LED digital billboards. Sincerely, Mark Baker President Soft Lights Foundation



9450 SW Gemini Drive
PMB 44671
Beaverton, OR 97008

July 11, 2023

BY EMAIL

Terri Osborne, Planning Assistant
Los Angeles, California
terri.osborne@lacity.org

Re: LED Digital Billboards Lack FDA Approval

Dear Terri Osborne,

An LED digital billboard is an electronic product which is regulated by the US Food and Drug Administration. The FDA presentation "How to Get Your Electronic Product on the U.S. Market" details the authority of the FDA to regulate the radiation from electronic products and the requirements of manufacturers to receive FDA approval for their electronic products that emit radiation.¹

The city of Los Angeles, California is considering installing LED digital billboards throughout the city. However, the FDA has not approved any LED digital billboard product to ensure the comfort, health, and safety of the public. The FDA is mandated by the 1968 Radiation Control for Health and Safety Act (21 U.S.C. 360ii) to publish performance standards for electronic products that emit radiation, and yet the FDA has failed to comply with 21 U.S.C. 360ii for LED products, including LED digital billboards.

LED digital billboards are a human health hazard which have been documented to cause seizures, migraines, anxiety, and eye injury. In addition, LED digital billboards violate civil rights laws, including 42 U.S.C. Chapter 126. The contact person at the FDA is Robert Ochs, Director, FDA Center for Devices and Radiological Health, OHT8 (robert.ochs@fda.hhs.gov). The contact person at the Access Board is Christopher Kuczynski, General Counsel (kuczynski@access-board.gov).

It is negligent for a city to install or operate an electronic product that has no FDA approval, and which is known to put the public at risk of harm. In order to pursue a claim against a public entity under California Government Code section 835, a person must show: (1) that the property was owned or controlled by a public entity at the time of the incident; (2) the property was in a dangerous condition at the time of the injury; (3) the injury was proximately caused by the dangerous condition; (4) the dangerous condition created a reasonably foreseeable risk of injury; and (5) that there was a negligent or wrongful act or omission within the scope of employment of the public entity's employee that created the dangerous condition or the public entity had actual or constructive notice of the dangerous

¹ <https://www.fda.gov/media/88417/download>

condition.² (*Moncur v. City of Los Angeles, Dept. of Airports* (1977) 68 Cal.App.3d 118; Gov. Code §§ 830(a)-(c), 835.2.). The installation or operation of LED digital billboards meets the criteria for negligence and liability.

To protect the public from LED visible radiation, LED digital billboards must not be operated in public spaces. The Soft Lights Foundation recommends that Los Angeles sue the FDA and the DOE for failing to comply with 21 U.S.C 360ii and publish the required performance standards for LED digital billboards and for failing to disclose to Los Angeles that LED products are a human health hazard.

In any case, Los Angeles must not install or operate LED digital billboards knowing that the LED digital billboards have not been FDA approved, knowing that the LED digital billboards are causing serious adverse health impacts, knowing that LED digital billboards are creating discriminatory barriers, and knowing that LED digital billboards are defective and dangerous.

Sincerely,

/s/ Mark Baker

President

Soft Lights Foundation

mbaker@softlights.org

cc:

City Attorney - cityatty.help@lacity.org

² https://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?lawCode=GOV§ionNum=835.