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Crosscurrents

Why are there anti-Muslim ads on our public buses?

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Liza Veale

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Earlier this fall San Francisco Muni buses displayed an ad that may have upset you. Or angered you. Or made you feel threatened. The Muni ad was part of an anti-Islam campaign calling itself the American Freedom Defense Initiative, or AFDI. It wasn't the first time AFDI's ads ran on Muni buses and it probably won't be the last.

There have been several versions of the ads. The most recent one featured before and after pictures. The first is of British-Egyptian amateur rapper, Abdel-Majed Abdel Bary,

quote “before becoming a jihadist,” it says. The “after” is also Bary, dressed in black, wearing a mask, standing next to a captive, quote “after becoming devout.” The images are underscored with the slogan, “it’s not Islamophobia, it’s Islamorealism.”

“You know, the ads are offensive and terrible,” says Nasrina Bargzie with the Asian Law Caucus. “We work very closely with members of the Arab, Middle Eastern, Muslim and South Asian communities, and the way we found out about them is literally people just started calling and texting me. They're calling Muslim people ‘savages.’ What are we gonna do about this?”

The first AFDI ad appeared on a Muni bus in 2012. It read: “in any war between the civilized man and a savage, support the civilized man. Support Israel, defeat Jihad.”

“Many community members, they were devastated by the ads,” says Bargzie. “There was this sentiment that having these messages on public buses suggested to viewers that the message was possibly endorsed by the city.”

Why the ads must run

It turns out, ad space on public buses is not public space. The city leases that space to an ad vendor, Titan Outdoor, and once it’s leased, the space becomes private property.

So the first thing Bargzie and other community organizations did was ask SFMTA to distance themselves from the ads.

“We drafted a letter with 35 community leaders and 75 Bay Area organizations asking the city to help the communities that had been affected,” she says. “So the city was very responsive. They issued bus ads clearly stating that they did not support the AFDI ads and sponsored Muni ads about the importance of inclusiveness. The city also donated a portion of the proceeds from the AFDI to the San Francisco Human Rights Commission toward a project to address the discrimination of Muslim and Arab community members in San Francisco.”

So SFMTA invested a lot of funds in countering the ads; why didn’t they just ban them?

Paul Rose, SFMTA’s spokesperson, says, “Many cities have tried to fight these ads, and then it goes to the judge, who has to serve a court order to place these ads regardless of how they feel about them, and that provides more publicity for the organization posting the ads, that costs more taxpayer dollars to fight something that we know we’ll eventually lose.”

The transportation agency of New York City, for example had a policy banning hate speech from their ads. Pamela Geller, the woman behind AFDI, contested that policy when her ad was rejected.

Whenever we encounter resistance," she says, "we fight for our freedom of speech."

She won the case, and New York's hate speech policy was struck down altogether. Now, there are only a few restrictions on free speech upheld by the Supreme Court. Most transportation agencies around the country have ad policies like San Francisco's.

What's in the SFMTA ad policy?

It restricts advertising contractors from posting any advertisement that is obscene or pornographic. It also forbids commercial advertising of alcohol, tobacco, or firearms.

Bargzie and the coalition of San Francisco communities thought a lot about how to create an ad policy that wouldn't fall apart like New York's did.

"We really didn't see a legal strategy that would result in being able to really kind of pick and choose," she says.

When the state gets to pick and choose what is and isn't hate speech, it effectively has the power to discriminate based on viewpoint. It's the reason we have the first amendment.

The private company that does the ad vending for the SFMTA could have its own ban on hate speech, but SFMTA can't force the company to do that. It can only force them to comply with the policy in their contract, and that policy has to be constitutional.

So are there any other ways in which AFDI's ads violate SFMTA'S ad policy?
The policy says advertising contractors shall not post any advertisement that concerns a declared political candidate or ballot measure.

AFDI'S ads don't do that.

They don't infringe on any copyright. They're not commercial ads that are false, misleading, or deceptive; in fact, they're not commercial at all.

But there's also a section of the policy that bans any advertisement that is clearly defamatory or advocates imminent lawlessness or violent action.

That one. You could argue that lawlessness or violent action might result from the AFDI ads, but not that it is advocated.

Anyway, Bargzie says, “We’ve checked in with SFMTA to see if there have been any reports of hate incidents or threats made in association with the ads, and they’ve said that they don’t have anything like that, which is actually a good sign.”

What can be done to keep prejudicial ads off buses?

So there’s nothing in the ad policy prohibiting the AFDI ads specifically. And a hate-speech ban isn’t feasible. But there’s one other option to keep them off San Francisco buses. SFMTA could ban viewpoint ads altogether. They can rewrite the policy so that only commercial ads make it onto Muni buses. That way the state can’t be guilty of viewpoint discrimination.

It’s a possibility, but Bargzie and her coalition think this would ultimately be a loss. “It was our position that the ad policy should remain the same because it was our position that having more arenas for speech was better,” she says. “We don't want this space to be taken from communities that are using it legitimately and for the right purposes of getting conversations going on important topics.”

That includes spreading the word on public health issues, public safety issues, service announcements.

“And if that means that every now and then you have to deal with vitriolic hateful speech like this,” she says, “then the community is going to meet that speech with more speech.”

But there’s one more twist. Pamela Geller says one of her ads was in fact rejected a couple months back by SFMTA. It showed a photo of Adolf Hitler with Muslim nationalist Haj Amin al-Husseini. SFMTA would not comment, but the rejection means they think the ad violates one of their policies.

Geller says she’s preparing to sue for the right to keep that ad on Muni buses … whether or not San Franciscans want to see it.

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Liza Veale

Liza got her start in radio with KALW's Audio Academy. Now, she is KALW's econmy reporter and a mentor for in the KALW Audio Academy.

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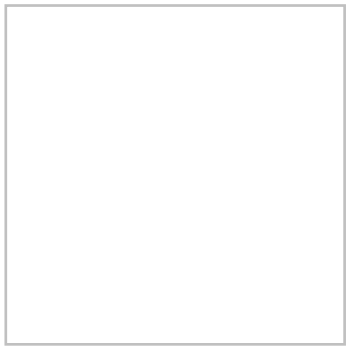
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