



use such clumsy words as "vote for" or "vote against." If I am designing an ad and want the conclusion to be the number "20," I would use the ad to count from 1 to 19. I would lead the viewer to think "20," but I would never say it. All advertising professionals understand that the most effective advertising leads the viewer to his or her own conclusion without forcing it down their throat. This is especially true of political advertising, because people are generally very skeptical of claims made by or about politicians.

4. Contrary to what many people would like to believe, it is well known among campaign consultants that the "swing voters" who regularly determine the outcome of elections usually vote on candidate personalities, rather than issues. Regardless of the substantive topic of any particular ad, one of the single most important message that a political ad can convey is the underlying sentiment that a candidate has values similar to or different than the target viewers of the ad. A campaign commercial is most effective if the candidate is perceived as likeable to the citizens relaxing in their living rooms, and if the viewers feel comfortable that the candidate shares their values. Often, the substantive issue is merely the vehicle used to demonstrate personal qualities.

5. The notion that ads intended to influence an election can easily be separated from those that are not based upon the mere presence or absence of particular words or phrases such as "vote for" is at best a historical anachronism. When I first entered this business, and up through the mid-1980s, we were regularly able to purchase five minute slots of air time. In a five minute spot, I could introduce a candidate, bring the viewer to a comfort level with the candidate, cover a few different substantive issues, and at the end, have the candidate make a direct appeal for a vote. In this by-gone era, it made sense for a candidate to appeal directly for votes using words such as "vote for," "support," or "cast your ballot" on the basis of a more full or substantive story told in a five minute time period. By contrast, in a 30 second ad, there is not enough time to make a positive direct sale.

6. In the era of the 30 second ad, it is a mistake to view any particular electioneering

advertisement as a campaign in and of itself. Over time, a campaign defines a candidate through a combination of style, image, and issues. Even shortly after watching an ad, the target audience usually doesn't remember the ad's substantive details. Rather, the viewers just get a feel for the candidate. It takes a lot of these "feels" to make up a campaign. Thirty second campaign ads, therefore, must be viewed collectively. It is impossible for the political ad consultant to truly close a positive sale until after he has had time to build the candidate's image through a series of 30 second spots.

7. Even if an electioneering ad aired in August, September, or October used words such as "vote for," "support," or "cast your ballot," it would do little good. People's minds may change from day to day about how they intend to vote, or more likely, they aren't significantly focused on whom to vote for until the days immediately prior to the election. Thus, the only real sale date is on election day in November. In the months leading up to that "sale date," the most important positive thing an ad can do is to create a general impression of a candidate that the voters will internalize over time, and that will hopefully sink in by election day.

8. Even if the goal of an early-September electioneering ad were to make a direct pitch for a vote, it would be nearly impossible to do it effectively. It is amazing how short thirty seconds really is when you are trying to craft a political ad. There is barely enough time to effectively convey a single theme. If you change course in the final five seconds of an ad, you may undo everything that you have attempted to accomplish in the previous 25 seconds. Therefore, it is uncommon that you would see a political advertisement on television that says "Candidate X is tough on crime" and then breaks that flow and switches to the entirely separate point of "Please vote for Candidate X."

9. In addition to the work we did for candidates at Bailey, Deardourff, we also did political ads for political parties and issue groups. When we were creating true issue ads (e.g., for ballot initiatives or more general issues such as handgun control), and when we were creating true party building ads, it was never necessary for us to reference specific candidates for federal

office in order to create effective ads. For instance, we created a series of ads opposing a ~~gambling referendum in Florida which made no reference to any candidates. We were successful~~ in conveying our message, and the referendum failed two to one.

10. For instance, in 1982 we were hired by the National Republican Congressional Committee to counteract the effects of the declining economy that usually result in the President's party losing numerous Congressional seats during the mid-term election. We designed a series of ads that were generally called the "Stay the Course" campaign. These ads emphasized that Republicans had only just begun enacting an economic agenda that would turn the economy around, and that the country needed to give it more time to work. This ad campaign was credited with helping Republicans keep more seats than would normally have been expected. We set the tone for the entire election season without ever mentioning specific candidates.

11. Similarly, issue organizations can design true issue ads without ever mentioning specific candidates for federal office. In my decades of experience in national politics, nearly all of the ads that I have seen that both mention specific candidates and are run in the days immediately preceding the election were clearly designed to influence elections. From a media consultant's perspective, there would be no reason to run such ads if your desire was not to impact an election. This is true not only in the 60 days immediately prior to an election, but probably also in the 90 or 120 days beforehand.

12. When I had a client who wanted to run a true issue ad to change or bolster public attitudes on an issue, I would recommend, if possible, avoiding the time period when the airwaves are saturated with electioneering ads. Such pure issue ads would likely get drowned out by the din of election related ads. Moreover, any ads that mention specific candidates that are aired during the height of an election season are almost certain to be perceived by the public as electioneering.

13. Few political advertisements go onto television without being subject to rigorous

polling, word testing, and focus groups. This is big business and a lot of money goes into pre- and post-development analysis. The political parties and issue groups that run so-called "issue ads" in the fall of an even-numbered year know exactly what they are doing. I certainly don't think that it is inappropriate for these organizations to sponsor broadcast ads that talk about issues and include positive or negative comments about particular candidates, I just wouldn't call them "issue ads." They are designed to influence elections and should be recognized as such.

14. These so-called "issue ads" are a phenomenon of the last 12 to 15 years. The serious explosion of these ads took place prior to 1996, and with that year's campaign by the Democratic National Committee. Since that time, political advertising has become a no-holds-barred war. When I consulted on dozens of campaigns in the 1970s and 1980s, we operated under essentially the same set of rules that governed in 1996, but many of today's practices would have been considered dangerous and wrong then, both politically and legally. In the post-Watergate era, we were worried about not only obeying the rules, but also assuring that our clients were seen as trying to clean up the image of the political process. But due to a lack of enforcement and a willingness on the part of some to win at all costs, these concerns appear to have dissipated.

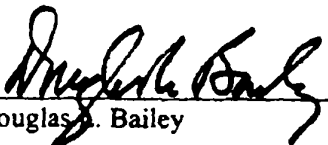
15. Burned out by the nonstop madness of campaign life, in 1987 I became Founder and Publisher of the *Hotline*, which is a bipartisan daily briefing on American politics that "covers the coverage" of campaigns, candidates and issues from TV, radio, and 400 daily papers across the country. The *Hotline*'s audience includes The White House, nearly every office on Capitol Hill, the campaign consultant industry, the interest groups, the political parties, the national TV networks, and more than 60 daily newspapers. I sold my interest in the *Hotline* to National Journal Inc. in 1996, but remain as a part-time consultant.

16. Currently, I am President and co-Founder (with Mike McCurry, former Press Secretary to President Clinton) of Freedom's Answer, a non-partisan, non-profit project of Youth-e-Vote, a 501 (c) (3) organization. Freedom's Answer is the largest non-partisan get-out-

the-vote drive ever organized in this country. Starting this September 11th, Freedom's Answer volunteers have begun registering new voters, getting pledges to vote from family, friends, and neighbors, and making sure they actually turnout to vote on election day. While every American can take part in Freedom's Answer, the "ground troops" for the campaign are high school students in the Youth Voter Corps. A record-setting vote this November will show the world that the September 11th attacks only strengthened our nation's commitment to stand together for freedom. Which candidate or party wins is less important than that freedoms wins. And freedom wins when all who can vote do vote.

17. Ideally, there would be no need to organize such a massive effort in order to encourage people to exercise their right to vote. Declining voter participation rates are well documented: in the 2000 Presidential race, barely half of all eligible voters bothered to show up at the polls. The sad truth is that people now need to be convinced that they can have a meaningful effect on the political process. Although I cannot purport to be able to precisely attribute any particular percentage of the decline in voter turnout to any particular factor, I have had a front row seat during the last four decades of national political campaigns. I have no doubt that the rise in the quantity and importance of soft money has shifted power away from local networks of citizens to the big contributors and the campaign consultants who orchestrate massive national media campaigns, and to the national media itself. A ban on soft money, together with efforts such as Freedom's Answer, can hopefully restore our nation's faith in democracy.

Pursuant to 28 U.S.C. 1746, I declare under penalty of perjury that the foregoing is true and correct.

  
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Douglas A. Bailey

10/3/02  
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Date