

State of Minnesota
Campaign Finance and Public Disclosure Board
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ADVISORY OPINION 463

SUMMARY

News media organizations and their employees and agents are not lobbyists as a result of publishing or broadcasting news items, editorial comments, or paid advertisements which directly or indirectly urge official action by public or local officials.

Facts

As representative for the Minnesota Broadcasters Association (MBA) and the Minnesota Newspaper Association (MNA), you ask the Campaign Finance and Public Disclosure Board for an advisory opinion on lobbying regulations that may impact members of these organizations. The request is based on the following facts:

1. The MBA represents the radio and television industry and their related platforms. The MNA is a voluntary trade association of all general-interest newspapers in the State of Minnesota.
2. The MBA and MNA are aware that the definition of “lobbyist” provided in Chapter 10A makes it clear that a lobbyist does not include “a news medium or its employees or agents while engaged in the publishing or broadcasting of news items, editorial comments, or paid advertisements which directly or indirectly urge official action.”¹
3. The requester points out that in 1990 the legislature amended the wording of this exclusion to change “news media” to “news medium”.
4. The MBA and MNA are also aware that the definition of “principal” provided in Chapter 10A does not contain a similar exception for the publication or broadcasting of news items or editorial comments.² Principals are associations that either spend more than

¹ [Minn. Stat. § 10A.01, subd. 21\(b\)\(7\)](#).

² [Minn. Stat. § 10A.01, subd. 33](#); See also [2024 Minn. Laws ch. 112, art. 4, sec. 5](#), which increased the threshold amount at which compensation paid to a lobbyist results in the payor being defined as a

\$3,000 in a year to engage or compensate a lobbyist; or spend at least \$50,000 in a year to influence legislative action, administrative action, or the official action of one or more political subdivisions.

5. The MBA and MNA acknowledge the evolving way that news is delivered, and are aware of the addition of a statutory definition of “legislative action” that became effective in 2024.

Given these facts, the MBA and MNA request the Board’s opinion with respect to activities that broadcasters and publishers have historically considered to be part of news media.

Issue One

The description of those who are engaged in the delivery or distribution of news-related material has changed since 1990 when the phrase “news medium” was used to define those who are excluded from the definition of lobbyist. Given that change, does the exclusion for “*news medium or its employees or agents*” found in the definition of lobbyist include any media organization engaged in the publication or broadcasting of news information via radio, television, podcast, print, online and/or digital platforms?

Opinion One

Yes. Before 1990, the statute used the term “news media” which is commonly defined as any means of distributing news by mass communication. The current statute applies the exclusion to the “news medium”, which is commonly defined as any system or method through which a speaker or writer provides news to their audience. At no time has the exclusion been limited to print, broadcast, or any other method of distributing the news. Undoubtedly new online and digital methods to deliver news content have been developed since 1990. However, the definition is written so that the exclusion is not limited to any particular method of distribution of information by news organizations.

Issue Two

The content delivered by news mediums has changed since 1990. Given that change, does the exclusion in the definition of a lobbyist for a news medium or its employee or agents “*while engaged in the publishing or broadcasting of news items, editorial comments, or paid advertisements which directly or indirectly urge official action*” apply to the following activities:

Board Note: For all scenarios in issue two the Board assumes that the activity is by a news medium.

- A. Editorial commentary provided by either a guest or host of a talk, television, radio or podcast show.

principal, from \$500 to \$3,000, and changed “the official action of metropolitan governmental units” to “the official action of political subdivisions”. This section became effective the day following final enactment.

Opinion: Yes. The exclusion specifically references “editorial comments” as content that does not require an individual to register as a lobbyist. The Board considers the word “publishing” to be inclusive of making content known to the general public by any means, including web based and digital communication.

B. Podcast content and/or commentary.

Opinion: Yes. However, the exclusion does not apply to individuals who are not employees or agents of a news medium. For example, a podcast created by an association that is not a news medium, for the purpose of urging the public to contact officials on an issue, may require the association to report as a principal if the cost of producing the podcast is \$50,000 or more during a calendar year.

C. Questions, answers, and comments made as part of guest interviews that are included in public affairs programming.

Opinion: Yes. Guest interviews are a method of providing information on news topics or events to an audience. Public affairs programming includes publishing or broadcasting news items, and is therefore within the exclusion for registration as a lobbyist.

D. Letters to the editor and/or publication of positions taken by the editorial board of members of the MBA and MNA.

Opinion: Yes. The positions developed by the editorial board of news organizations result in editorial commentary, which is specifically listed in the exclusion. Letters to the editor provide a means of communication and feedback between a news organization and its audience, which is a part of providing news content and editorial commentary.

E. Comments posted by third parties in response to online digital content.

Opinion: Yes, the online comment section is the digital equivalent of letters to the editor for print media.

F. Advocacy/solutions journalism that presents a clear conclusion about remedies for a social ill, including a call to action for reform or a legislative fix.

Opinion: Yes. The exclusion includes individuals who disseminate news items that “directly or indirectly urge official action”.

G. A reporter or host expressing sympathy or support, or calling for listeners or readers to take action, for a position expressed by a person being interviewed, understanding that the position may be the subject of a current legislative proposal or future legislation.

Opinion: Yes, for the same reason as provided in response to question number six.

Issue Three

Is a news medium, including television and radio broadcasters, media organizations, newspapers, and those engaged in broadcasting, publishing and/or journalism able to engage in activities that an individual is able to engage in without being defined as a lobbyist under Minnesota Statutes section 10A.01, subdivision 21, paragraph (b), clause (7), without triggering the need to report as a lobbyist principal? Assume for this issue that the news medium spends \$50,000 or more in a calendar year to publish or broadcast content that directly or indirectly urges official action.

Opinion Three

Yes. The legislature not only excluded the employees and agents of a news medium from the definition of lobbyist, it also specifically excluded the news medium from the requirement to register as a lobbyist. Including news mediums in the exclusion was unnecessary because only individuals are defined as, and register as, lobbyists, while a news organization cannot register as a lobbyist. The Board believes that by including "news medium" in the exclusion, the legislature intended to exempt news organizations from lobbying regulation and reporting while engaged in the publishing or broadcasting of news items, editorial comments, or paid advertisements. Therefore, they are not considered principals required to report lobbying-related expenditures.

Further, lobbyist principals report the amount spent by the principal lobbying within the state.³ Requiring a news medium to report the costs of publishing or broadcasting news or editorial content or advertising it is paid to disseminate as a cost of lobbying, when its employees and agents are excluded from the definition of lobbyist, is an absurd result that the legislature would not have intended.⁴

Although not related to lobbying, the Board notes that the legislature has included specific exclusions for news organizations throughout Chapters 10A and 211B. In Minnesota Statutes section 10A.01, subdivision 9, the "publishing or broadcasting of news items or editorial comments by the news media" is excluded from the definition of campaign expenditure. In Minnesota Statutes section 10A.01, subdivision 11, the definition of contribution excludes "the publishing or broadcasting of news items or editorial comments by the news media". In Minnesota Statutes section 10A.201, subdivision 6, a communication is generally not an electioneering communication if it "appears in a news story, commentary, or editorial distributed through the facilities of any broadcast, cable, or satellite television or radio station...". In Minnesota Statutes section 211B.01, news items and editorial comments by the news media are excluded from the definitions of "campaign material" and acts done for "political purposes." And finally, in Minnesota Statutes section 211B.15, subdivision 5, the prohibition on corporate

³ The Board notes that a news medium that spends more than \$3,000 to be represented by a lobbyist, or that spends more than \$50,000 on lobbying activity not discussed in this opinion or otherwise excluded from what is defined as lobbying, is a principal, and will need to file the annual lobbyist principal report.

⁴ See [Minn. Stat. § 645.17](#).

political contributions “does not prohibit publication or broadcasting of news items or editorial comments by the news media.” The legislature clearly recognizes the unique role of news organizations, and has moved to ensure that news organizations can freely publish and broadcast news items and editorial comment without regulation or reporting to the Board. The Board believes that this opinion is consistent with that legislative direction.

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David Asp, Chair
Campaign Finance and Public Disclosure Board