



CITIZENS UNION OF THE CITY OF NEW YORK
Comments to the Joint Commission on Public Ethics (JCOPE)
on Proposed Guidance Regarding the Applicability of the Lobbying Act
to Social Media Activities
January 11, 2016

Presented below are Citizens Union's comments on proposed guidance related to the scope of the Lobbying Act (Legislative Law, Article 1-A) as it relates to social media activities. Citizens Union is a nonpartisan good government group dedicated to making democracy work for all New Yorkers. We serve as a civic watchdog, combating corruption and fighting for political reform. Our responses to the questions outlined in your memo are below.

- 1. When does social media activity constitute direct lobbying? Must a communication be made directly to a public official (e.g., posting on a public official's social media page or tweeting at a public official) to be considered direct lobbying?**

Citizens Union believes that direct contact is the appropriate line to draw for both those paid for social media use by lobbying organizations, as well as social media use by lobbyists. Something that also should be considered is under which account(s) the activity is taking place. Is it the private account of a staff member of a lobbying organization? If so, has the individual previously been in communication with the official for activities covered under the lobbying law? Is the account official for the individual's position in an organization? Is it an official organizational account?

- 2. When does social media constitute grassroots lobbying?**

This should be considered grassroots lobbying when there is a specific call to action on an issue, such as asking for a particular action or vote by a legislator, not necessarily an update about an issue without a specific call for action. If there is a paid advertisement to promote the posting or tweet, this also should be reported.

- 3. Can a statement by one person ever be attributed to another? For example, are statements made by an organization's members on their personal social media pages attributable to that organization?**

These individuals are not compensated for this as volunteers/members, so should not be included, however, the activity by compensated staff to initiate and send a call to action should be covered under grassroots lobbying.

- 4. When lobbying statements are re-posted, retweeted, or otherwise amplified, when are the statements (and associated costs) attributable to the original author, as opposed to the subsequent "reposting entity"?**

As per the previous point, the actions of those who repost or retweet should be not attributable to the original poster, though the call to action itself would be included. With the ability of anything to be shared in this “viral” age, the actions of others are not predictable and outside of the control of the original poster. However, if a paid staff member of an organization that is engaged in lobbying retweets a post from another individual or organization that contains lobbying language, this should be reported, though the account through which this occurs should be examined as per question one.

5. Is an online post or tweet that provides a hyperlink to a lobbying website reportable activity?

This should not be considered direct lobbying, but could be considered reportable activity to support lobbying activities if it links directly to an action alert or website where the primary intent is lobbying. If there is a paid advertisement to promote the posting, this should be reported as per question two.

6. What are the expenditures made in connection with social media activity that could be considered “expenses” under the Lobbying Act?

This should parallel existing rules regarding staff time and preparation.