



THE JOINT COMMISSION ON PUBLIC ETHICS IS SOLICITING INFORMAL COMMENTS ON POTENTIAL GUIDANCE REGARDING THE APPLICABILITY OF THE LOBBYING ACT (LEGISLATIVE LAW ARTICLE 1-A) TO SOCIAL MEDIA ACTIVITIES

Lobbyists are increasingly turning to social media to carry out their efforts. In light of this, the Joint Commission on Public Ethics (the “Commission”) is considering issuing guidance to provide clarity on when social media activities constitute reportable lobbying, assuming that the individual or organization engaging in those activities meets the \$5,000 monetary threshold to trigger application of the Lobbying Act, and what costs related to such activities constitute reportable compensation and expenses.

Accordingly, the Commission is seeking informal comments concerning the applicability of the Lobbying Act to social media activities. The Commission notes that it has released an [advisory opinion](#) regarding the Lobbying Act reporting obligations for parties compensated for consulting services in connection with direct and grassroots lobbying. The guidance set forth in that advisory opinion will be useful in considering the questions that arise with respect to social media and lobbying.

The questions the Commission is considering include, but are not limited to:

- 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?
- When does social media constitute grassroots lobbying?
- 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?
 - 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”?
- Is an online post or tweet that provides a hyperlink to a lobbying website reportable activity?

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

Comments, questions, or suggestions should be submitted to Martin Levine, Director of Lobbying and FDS Compliance and Senior Counsel, at martin.levine@jcope.ny.gov, no later than February 19, 2016.

[Citizens Union Comment Letter](#)

[New York Advocacy Association Comment Letter](#)

[Wilson Elser Comment Letter](#)