



**FEDERAL ELECTION COMMISSION**  
Washington, DC 20463

March 31, 2022

**SENT VIA EMAIL**

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 10 G Street, NE, Suite 600  
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RE: MUR 7789 (Courier Newsroom, Inc., *et al.*)

Dear Mr. Berkon and Ms. Mahmood:

On September 10, 2020, your clients Courier Newsroom, Inc., Acronym, and Tara McGowan were notified that the Federal Election Commission (“Commission”) had received a complaint alleging violations of the Federal Election Campaign Act of 1971, as amended, and Commission regulations. After reviewing the complaint, the response you filed on your clients’ behalf, and other publicly available information, the Commission, on March 22, 2022, dismissed the allegations that Courier Newsroom, Inc., violated 52 U.S.C. §§ 30102, 30103, and 30104 by not registering, organizing, and reporting as a political committee, found no reason to believe that Acronym and Tara McGowan violated 52 U.S.C. §§ 30102, 30103, and 30104, and closed the file in this matter.

Documents related to the case will be placed on the public record within 30 days. See Disclosure of Certain Documents in Enforcement and Other Matters, 81 Fed. Reg. 50,702 (Aug. 2, 2016). The Factual and Legal Analysis, which explains the Commission’s findings, is enclosed for your information.

If you have any questions, please contact me at (202) 694-1588 or mallen@fec.gov.

Sincerely,

*Mark Allen*

Mark Allen  
 Assistant General Counsel

Enclosure:

Factual and Legal Analysis

**FEDERAL ELECTION COMMISSION**  
**FACTUAL AND LEGAL ANALYSIS**

RESPONDENTS: Courier Newsroom, Inc. MUR 7789  
Acronym  
Tara McGowan

## I. INTRODUCTION

8        This matter was generated by a complaint filed with the Federal Election Commission  
9        (the “Commission”).<sup>1</sup> The Complaint alleges that Courier Newsroom, Inc. (“Courier”) violated  
10      the Federal Election Campaign Act of 1971, as amended (the “Act”), and Commission  
11      regulations by failing to register and report as a political committee, despite meeting the legal  
12      requirements for political committee status, based on the Complaint’s primary allegation that  
13      Courier is not a press entity subject to the Act’s “press exemption,” but is instead a nonconnected  
14      committee supporting the Democratic Party’s candidates for federal office. Respondents deny  
15      these allegations and contend that Courier is a press entity whose activities fall within the scope  
16      of the press exemption, and that it therefore did not violate the Act by not registering and  
17      reporting as a political committee.

18 The record indicates that Courier regularly engages in activities characteristic of a press  
19 entity, including hiring experienced journalists and disseminating media content reporting on  
20 both political and nonpolitical topics. Overall, the record thus indicates that, under the  
21 Commission’s historical approach to analyzing such questions, Courier is a press entity whose  
22 activities at issue in this matter fell within the scope of the Act’s press exemption. Therefore, the  
23 Commission dismisses the allegation that Courier violated 52 U.S.C. §§ 30102, 30103, and  
24 30104 by failing to register, organize, and report as a political committee. Further, because the

<sup>1</sup> See 52 U.S.C. § 30109(a)(1).

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1 Complaint does not set forth a cognizable violation of the Act by Acronym or Tara McGowan,  
 2 the Commission finds no reason to believe as to those Respondents.

3 **II. FACTUAL BACKGROUND**

4 Courier represents that it is a for-profit media company that is majority owned by  
 5 Acronym, a 501(c)(4) nonprofit organization.<sup>2</sup> Public records indicate that it was organized in  
 6 Delaware on March 21, 2019, and is a C corporation for federal tax purposes.<sup>3</sup> Courier asserts  
 7 that it is not owned or controlled by any candidate, political party, or political committee, and  
 8 there is no information to the contrary.<sup>4</sup> Courier’s Chief Executive Officer (CEO), Tara  
 9 McGowan, is also Acronym’s CEO, but Respondents represent that there is a “clear ‘church and  
 10 state’ firewall” between the two entities.<sup>5</sup> Courier currently appears to publish all of its content  
 11 online, and represents that each of its publications, including its national website and affiliated  
 12 state websites, “covers both electoral and non-electoral content,” and that its reporters are hired  
 13 from well-known national and local news outlets.<sup>6</sup> Respondents acknowledge that Courier is  
 14 “progressive in its viewpoint and its decisions about what topics to cover and how to cover them  
 15 are shaped by that progressive worldview.”<sup>7</sup>

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<sup>2</sup> Resp. of Acronym, Courier Newsroom, Inc., and Tara McGowan at 1-2 (Oct. 30, 2020) (“Resp.”).

<sup>3</sup> A Delaware public records search indicates that Courier’s date of organization is March 21, 2019, and its registered agent is the Corporation Trust Company. *See* “Courier Newsroom, Inc.,” Del. Dep’t of State, Div. of Corps. Entity Search, <https://icis.corp.delaware.gov/ecorp/entitysearch/NameSearch.aspx>. Acronym’s tax filing for fiscal year 2018-2019 — which extends from May 1, 2018, to April 30, 2019 — lists Courier, under “Related Organization Taxable as a Corporation or Trust,” as a C corporation legally domiciled in Delaware. *See* Acronym 2018-2019 Form 990 at 36 (Mar. 16, 2020) (cited in Compl. at 2 n.1) (“Acronym 990”).

<sup>4</sup> Resp. at 1; *see* Acronym 990 at 36 (listing Acronym as the 100% owner of Courier).

<sup>5</sup> Resp. at 2; *see* “About Courier Newsroom,” <https://couriernewsroom.com/about-courier-newsroom> (cited in Resp. at note 1) (listing McGowan as Courier’s CEO); Acronym 990 at 7 (listing McGowan as Acronym’s President and CEO).

<sup>6</sup> Resp. at 2.

<sup>7</sup> *Id.* at 3.

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1        The Complaint alleges that Courier violated the Act and Commission regulations by not  
 2        registering and organizing as a political committee, and by failing to file periodic disclosure  
 3        reports regarding its contributions and expenditures, as required under the Act.<sup>8</sup> The Complaint  
 4        primarily bases these allegations on a contention that Courier “is a news outlet in name only”  
 5        whose “fundamental purpose since its inception” has been to help elect Democratic candidates,  
 6        and that its news distribution is “not widespread but strategically selected” to have an electoral  
 7        impact.<sup>9</sup> According to the Complaint, Courier operates “digital newspapers” that “pose as local  
 8        newspapers and use nondescript names,” but which actually produce “political advertisements  
 9        purporting to be news articles.”<sup>10</sup>

10        Attached to the Complaint is a June 20, 2019, memorandum from McGowan (as “CEO of  
 11        ACRONYM”) to “Interested Parties” regarding “ACRONYM News Corp. 2019-2020 Rapid  
 12        Build Plan” (the “McGowan memo”).<sup>11</sup> This document expresses a view that the Democratic  
 13        Party’s voter persuasion efforts focus on less-effective political ads distributed through  
 14        traditional media channels, while the Republican Party has focused on using news content  
 15        distributed through digital channels to more effectively persuade voters, and that the “Acronym  
 16        News Corp” would work to reverse this trend.<sup>12</sup>

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<sup>8</sup>        Compl. ¶¶ 4-5 (Sept. 3, 2020). The Complaint also alleges that Courier, by not registering and operating as a political committee, may have violated the Act by failing to implement safeguards that ensure it does not accept prohibited contributions. *Id.* ¶ 28.

<sup>9</sup>        *Id.* ¶ 22.

<sup>10</sup>        *Id.* ¶¶ 15, 22; *see* Joshua Green, *The Left’s Plan to Slip Vote-Swaying News Into Facebook Feeds*, Bloomberg Businessweek (Nov. 25, 2019), <https://www.bloomberg.com/news/features/2019-11-25/acronym-s-newsrooms-are-a-liberal-digital-spin-on-local-news> (cited in Compl. at 1 n.4) (“Bloomberg Article”).

<sup>11</sup>        Compl., Ex. A (“McGowan Memo”). The document is marked “DRAFT NOT FOR DISTRIBUTION” and it is unclear how the Complainants acquired it; Respondents do not, however, contest the accuracy or authenticity of the document, nor do they raise an argument that the document was misappropriated or doctored.

<sup>12</sup>        *See, e.g.*, McGowan Memo at 1.

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1 The McGowan memo further indicates that Courier intends to deliver local news content

2 to better inform its readers, particularly noting:

3 “We report on the news + stories that matter most to people’s day-  
 4 to-day lives; We cover local, state and national politics + current  
 5 events through a local and values-driven lens; We reach people  
 6 where they are — both geographically and technologically — to  
 7 fill the growing local news + information gap; We are a news  
 8 company with an honest point of view; [and] We believe that a  
 9 strong and healthy democracy is only possible when there is an  
 10 informed + engaged electorate.”<sup>13</sup>

11 McGowan, Acronym, and Courier filed a joint Response contending that Courier did not

12 violate the Act as alleged because Courier does not satisfy the legal requirements for political

13 committee status.<sup>14</sup> Specifically, the Response argues that Courier did not receive any

14 contributions or make any expenditures; that Courier did not have the requisite major purpose of

15 nominating or electing federal candidates; and, moreover, that Courier’s activities — “the regular

16 distribution of news stories, commentary, and editorials” — are covered by the press exemption

17 because Courier is a press entity acting within the scope of the exemption, *i.e.*, in a legitimate

18 press function.<sup>15</sup> Addressing Courier’s practice of placing paid Facebook ads to promote its

19 content, Respondents assert that “the revenue model for quality local journalism is in jeopardy”

20 and thus, “[b]y necessity,” Courier “invests in paid advertising to deliver its news stories to

21 target audiences.”<sup>16</sup> Respondents also assert that the McGowan memo provided “a proposal for

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<sup>13</sup> *Id.* at 7.

<sup>14</sup> Resp. at 4.

<sup>15</sup> *Id.* at 5-8.

<sup>16</sup> *Id.* at 3. The Response also cites to an essay by Courier’s Chief Operating Officer Rithesh Menon, in which Menon writes: “In the past decade, more than one in five local newspapers have shut down, and many others have been bought up by holding companies focused more on squeezing profits than producing quality reporting. . . . This is why Courier Newsroom exists. . . . In order to meet audiences where they increasingly get their information and to counter the large-scale distribution network of misinformation, [Courier is] forced to advertise heavily on platforms like Facebook.” *Id.* at 2 n.13, 3 n.18 and associated text (quoting from Rithesh Menon, *Why*

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1 an ‘ACRONYM Newsroom’ . . . [that] was never established and, therefore, the statements in the  
 2 memorandum cannot reasonably be attributed to Courier Newsroom, which operates under a  
 3 different set of principles.”<sup>17</sup>

4 On its website, Courier and its affiliated state websites appear to publish a wide variety of  
 5 content on both political and nonpolitical topics, as well as content focused on both national and  
 6 local issues.<sup>18</sup> That also appears to have been the case shortly before the 2020 general election.<sup>19</sup>  
 7 On the “About Us” page of its website, Courier states that it “is a national news organization  
 8 dedicated to helping people better understand what’s happening in our local and national  
 9 governments,” and describes itself as “a civic media company.”<sup>20</sup>

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*Courier Newsroom Is Needed At This Moment in Time*, MEDIUM (Oct. 7, 2020), <https://medium.com/@ritsmenon/why-courier-newsroom-is-needed-at-this-moment-in-time-e4e9693fe7c4>).

<sup>17</sup> *Id.* at 4.

<sup>18</sup> See, e.g., Pat Kreitlow, *Biden Administration Adding New Connections to Education, Training, and Aid*, COURIER NEWSROOM, UP NORTH NEWS (Aug. 19, 2021), <https://couriernewsroom.com/2021/08/19/biden-administration-adding-new-connections-to-education-training-and-aid/>; Katelyn Kivel, *Michigan Moms Call on Leaders to Restore Paid Sick Leave With the Stroke of a Pen*, Courier Newsroom, The Gander (Aug. 23, 2021), <https://couriernewsroom.com/2021/08/23/michigan-moms-call-on-leaders-to-restore-paid-sick-leave-with-the-stroke-of-a-pen/>.

<sup>19</sup> See, e.g., Patrick Abdalla, *Young Black Voters Could Be the Key to Biden Winning It All*, COURIER NEWSROOM (Oct. 30, 2020), <https://couriernewsroom.com/2020/10/30/young-black-voters-could-swing-election/>; Elle Meyers, *Free College Isn’t a Radical Idea. It’s Already Happening Across the US*, COURIER NEWSROOM (Oct. 29, 2020), <https://couriernewsroom.com/2020/10/29/free-college-isnt-a-radical-idea-its-already-happening-across-the-us/>.

<sup>20</sup> “About Us,” COURIER NEWSROOM, <https://couriernewsroom.com/about-us/>; see also “Ethics & Standards,” COURIER NEWSROOM, <https://couriernewsroom.com/ethics-standards/> (“Our coverage is not determined by our funders, some of whom have specific interests that may or may not align with ours. We also prohibit funders from reaching out to reporters in attempts to influence coverage.”).

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1     **III.    LEGAL ANALYSIS**

2       **A.    Press Exemption**

3           1.       Applicable Law

4       In order to undertake an analysis of an organization that is alleged to be a political

5       committee, as here, it is necessary to determine, among other things, whether the organization

6       received contributions or made expenditures.<sup>21</sup> Under the Act, a “contribution” includes “any

7       gift, subscription, loan, advance, or deposit of money or anything of value made by any person

8       for the purpose of influencing any election for Federal office,”<sup>22</sup> and an “expenditure” includes

9       “any purchase, payment, distribution, loan, advance, deposit, or gift of money or anything of

10      value, made by any person for the purpose of influencing any election for Federal office.”<sup>23</sup>

11      However, the Act specifically exempts from the definition of expenditure “any news story,

12      commentary, or editorial distributed through the facilities of any broadcasting station, newspaper

13      magazine, or other periodical publication, unless such facilities are owned or controlled by any

14      political party, political committee, or candidate.”<sup>24</sup> This exemption is called the “press

15      exemption” or “media exemption.”<sup>25</sup> Costs covered by the exemption are also exempt from the

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<sup>21</sup>      52 U.S.C. § 30101(4)(A).

<sup>22</sup>      *Id.* § 30101(8)(A).

<sup>23</sup>      *Id.* § 30101(9)(A).

<sup>24</sup>      *Id.* § 30101(9)(B)(i). Commission regulations further provide that neither a “contribution” nor an “expenditure” results from “[a]ny cost incurred in covering or carrying a news story, commentary, or editorial by any broadcasting station (including a cable television operator, programmer or producer), Web site, newspaper, magazine, or other periodical publication, including any Internet, or electronic publication” unless the facility is “owned or controlled by any political party, political committee, or candidate.” 11 C.F.R. §§ 100.73, 100.132.

<sup>25</sup>      Advisory Opinion 2011-11 at 6 (Colbert); Advisory Opinion 2008-14 at 3 (Melothé).

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1 Act's disclosure and reporting requirements.<sup>26</sup> The Act's legislative history indicates that  
 2 Congress did not intend to "limit or burden in any way the First Amendment freedoms of the  
 3 press and of association. [The exemption] assures the unfettered right of the newspapers, TV  
 4 networks, and other media to cover and comment on political campaigns."<sup>27</sup>

5 To assess whether the press exemption applies, the Commission uses a two-part test.<sup>28</sup>

6 First, the Commission determines whether the entity engaging in the activity is a "press entity."<sup>29</sup>  
 7 Second, the Commission determines the scope of the exemption by applying the two-part  
 8 analysis presented in *Reader's Digest Association v. FEC*: (1) whether the entity is owned or  
 9 controlled by a political party, political committee, or candidate; and (2) whether the entity is  
 10 acting within its "legitimate press function" in conducting the activity.<sup>30</sup>

11 With regard to the first part of the press-exemption test, the Act and Commission  
 12 regulations do not define the terms "press entity" or "media entity."<sup>31</sup> As such, in determining  
 13 whether either term applies, the Commission has focused on whether the entity "is in the  
 14 business of producing on a regular basis a program that disseminates news stories, commentary,

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<sup>26</sup> Advisory Opinion 2011-11 at 6, 8-10 (discussing costs that are within this exemption and costs that are not).

<sup>27</sup> H.R. REP. NO. 93-1239 at 4 (1974).

<sup>28</sup> Advisory Opinion 2005-16 at 4 (Fired Up!).

<sup>29</sup> *Id.*

<sup>30</sup> See *Reader's Digest Ass'n v. FEC*, 509 F. Supp. 1210, 1214-15 (S.D.N.Y. 1981); Advisory Opinion 2011-11 at 6-7. When determining whether the entity was acting within the scope of a legitimate press function at the time of the alleged violation, the Commission considers two factors: (1) whether the entity's materials are available to the general public; and (2) whether they are comparable in form to those ordinarily issued by the entity. See *Reader's Digest Ass'n*, 509 F. Supp. at 1215; Factual & Legal Analysis at 4, MUR 7231 (CNN); Advisory Opinion 2016-01 at 3 (Ethiq).

<sup>31</sup> See Advisory Opinion 2010-08 at 5 (Citizens United) ("Neither the Act nor Commission regulations use or define the term 'press entity.'").

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1 and/or editorials.”<sup>32</sup> The determination of “[w]hether an entity is a press entity does not  
 2 necessarily turn on the presence or absence of any one particular fact.”<sup>33</sup> However, the  
 3 Commission “does not investigate an entity’s viewpoints in determining whether it qualifies as a  
 4 ‘press entity’ under the press exemption,”<sup>34</sup> and an entity otherwise eligible for the press  
 5 exemption “would not lose its eligibility merely because of a lack of objectivity in a news story,  
 6 commentary, or editorial, even if the news story, commentary, or editorial expressly advocates  
 7 the election or defeat of a clearly identified candidate for Federal office.”<sup>35</sup>

8         With regard to the second part of the press-exemption test, courts have made clear that  
 9 not all actions taken by press entities fall within the exemption.<sup>36</sup>

10         The Commission has determined that “[e]ven seemingly biased stories or commentary by  
 11 a press entity can fall within the media exemption.”<sup>37</sup> Nonetheless, “the Commission is also  
 12 mindful that a press entity’s press function is ‘distinguishable from active participation in core  
 13 campaign or electioneering functions.’”<sup>38</sup> Put differently, “the press exemption covers press  
 14 activity, not campaign activity by a press entity.”<sup>39</sup>

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<sup>32</sup>         Advisory Opinion 2008-14 at 4 (citing Advisory Opinions 2005-16 (Fired Up!); 2004-07 (MTV); and 2000-13 (iNEXTV)).

<sup>33</sup>         Advisory Opinion 2007-20 at 4 (XM Radio) (citing Advisory Opinion 2005-19 (The Inside Track)).

<sup>34</sup>         Advisory Opinion 2008-14 at 4.

<sup>35</sup>         Factual & Legal Analysis at 5, MUR 7206 (Bonneville Int’l Corp.) (quotation marks omitted) (quoting Advisory Opinion 2005-16 at 6); Factual & Legal Analysis at 3, MUR 6579 (ABC News, Inc.).

<sup>36</sup>         See *McConnell v. FEC*, 540 U.S. 93, 208 (2003) (commenting that the press exemption “does not afford *carte blanche* to media companies generally to ignore FECA’s provisions”).

<sup>37</sup>         First Gen. Counsel’s Report at 5, MURs 5540 and 5545 (CBS Broadcasting, *et al.*) (adopted as dispositive).

<sup>38</sup>         Advisory Opinion 2011-11 at 8 (quoting Advisory Opinion 2008-14).

<sup>39</sup>         *Id.* at 9.

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1        In evaluating whether a press entity was acting in its legitimate press function, the  
 2        Commission has considered “whether the material at issue is available to the general public,”<sup>40</sup>  
 3        and applied the “considerations of form” analysis set forth by the U.S. Supreme Court in *FEC v.*  
 4        *Massachusetts Citizens for Life* (“MCFL”), which examines whether the activity in question is  
 5        comparable in form to the press entity’s regular activities, considering whether the complained-  
 6        of activities and content are produced in the same manner, using the same people, and subject to  
 7        the same review and distribution as the press entity’s general activities.<sup>41</sup>

8            2.        The Overall Record Indicates that Courier is a Press Entity

9        The overall record in this matter indicates that Courier is a press entity, notwithstanding  
 10       its acknowledged ideological viewpoint. The Act and Commission regulations do not define the  
 11       term “press entity,” and in prior matters, the Commission’s evaluation of whether an  
 12       organization is a press entity has focused on the entity’s usual and normal activity — *i.e.*,  
 13       whether the entity “is in the business of producing on a regular basis a program that disseminates  
 14       news stories, commentary, and/or editorials.”<sup>42</sup> For instance, in Advisory Opinion 2005-16  
 15       (Fired Up!), the Commission determined that a for-profit company intending to establish  
 16       multiple state-specific websites to produce “unabashedly progressive” content, including  
 17       commentaries and news reporting, was a press entity.<sup>43</sup> Similarly, in Advisory Opinion 2008-14  
 18       (Melothé), which featured a for-profit internet TV station with content that “likely would feature

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<sup>40</sup>        Advisory Opinion 2016-01 at 3 (citing *FEC v. Mass. Citizens for Life* (“MCFL”), 479 U.S. 238, 251 (1986)).

<sup>41</sup>        Advisory Opinion 2011-11 at 8 (citing *MCFL*).

<sup>42</sup>        Advisory Opinion 2008-14 at 4 (citing Advisory Opinions 2005-16 (Fired Up!); 2004-07 (MTV); and 2000-13 (iNEXTV)).

<sup>43</sup>        Advisory Opinion 2005-16 at 5.

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1 and be supportive of Democratic candidates only, and it would be of particular interest to those  
 2 Democratic candidates' campaign supporters and volunteers,"<sup>44</sup> the Commission concluded that  
 3 this proposed content "falls within the broad ambit of the normal press-business of covering and  
 4 commenting on political campaigns."<sup>45</sup> The Commission has reached the same conclusion in  
 5 cases involving a satellite radio company,<sup>46</sup> a nonprofit organization producing documentary  
 6 films,<sup>47</sup> and a company operating online streaming channels live-streaming campaign events.<sup>48</sup>

7 Viewed in light of these prior decisions, the record in this matter supports the conclusion  
 8 that Courier is a "press entity" under the first part of the press exemption test. Courier's  
 9 contention that it regularly produces and distributes "both electoral and non-electoral content"<sup>49</sup>  
 10 is supported by the content on its website, even immediately before the 2020 election.<sup>50</sup>  
 11 Moreover, Courier represents that it hires experienced journalists from well-known press outlets,  
 12 including, *e.g.*, *Vice*, *The Daily Beast*, and *The New York Times*, indicating that its content  
 13 producers have a track record of providing bona fide news coverage and commentary.<sup>51</sup> As  
 14 such, the record appears to support Courier's assertion that "the *content* of [its] news and

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<sup>44</sup> Advisory Opinion 2008-14 at 2.

<sup>45</sup> *Id.* at 4.

<sup>46</sup> Advisory Opinion 2007-20 at 4 (XM Radio).

<sup>47</sup> Advisory Opinion 2010-08 at 5 (Citizens United).

<sup>48</sup> Advisory Opinion 2019-05 at 5 (System73).

<sup>49</sup> Resp. at 2.

<sup>50</sup> *See supra* nn. 18-19.

<sup>51</sup> Resp. at 2; *see* Advisory Opinion 2016-01 at 3 ("Ethiq will employ journalists to produce original content and will retain editorial control of that content, similar to the way in which traditional magazine and newspaper editors generate and manage the content of their publications.").

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1 commentary is squarely within the journalistic mainstream.”<sup>52</sup> Based on its day-to-day  
 2 operations, Courier thus appears to be a press entity because it “is in the business of producing  
 3 on a regular basis a program that disseminates news stories, commentary, and/or editorials.”<sup>53</sup>

4 That conclusion is not undermined by Courier’s acknowledged ideological perspective  
 5 with respect to how it selects, produces, and distributes its content. Like the entities at issue in  
 6 prior Commission advisory opinions, Courier disseminates media content aimed at furthering a  
 7 specific ideological perspective: Much like the network of a national and several state-specific  
 8 websites presenting “unabashedly progressive” content that the company in Advisory Opinion  
 9 2005-16 operated,<sup>54</sup> Courier operates a national and multiple state-centric websites presenting  
 10 content that is “progressive in its viewpoint.”<sup>55</sup> But because the Commission “does not  
 11 investigate an entity’s viewpoints in determining whether it qualifies as a ‘press entity’ under the  
 12 press exemption,”<sup>56</sup> Courier’s “progressive” perspective does not undermine its status as a press  
 13 entity.

14 Because it produces “news stories, commentary, and/or editorials” on a “regular basis,”  
 15 Courier satisfies the Commission’s existing standard for a “press entity.”<sup>57</sup>

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<sup>52</sup> Resp. at 4 (emphasis in original).

<sup>53</sup> Advisory Opinion 2008-14 at 4 (citing Advisory Opinions 2005-16 (Fired Up!); 2004-07 (MTV); and 2000-13 (iNEXTV)).

<sup>54</sup> Advisory Opinion 2005-16 at 2.

<sup>55</sup> Resp. at 3; *see* Advisory Opinion 2005-16 at 2 (“The content on Fired Up’s websites . . . which you describe as “unabashedly progressive,” generally consists of commentary on, quotes from, and summaries of, news articles.”); Advisory Opinion 2008-14 at 2 (“The content of the campaign-TV Web site likely would feature and be supportive of Democratic candidates only, and it would be of particular interest to those Democratic candidate’s campaign supporters and volunteers.”).

<sup>56</sup> Advisory Opinion 2008-14 at 4.

<sup>57</sup> Advisory Opinion 2008-14 at 4. Whether to examine the electoral purpose behind an organization disseminating media content that focuses on federal candidates is, of course, the Commission’s prerogative to determine — particularly since the Act does not define a “press entity.”

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1                   3.     The Overall Record Indicates that Courier was Acting in a Legitimate  
 2                   Press Function

3                 In light of the foregoing analysis concerning Courier’s press entity status, the remaining

4                 question, therefore, is whether Courier’s activity was within the scope of the press exemption.

5                 The overall record supports the conclusion that Courier was acting in a “legitimate press  
 6                 function,” thereby indicating that its activities were within the scope of the press exemption. As  
 7                 noted above, the Commission determines the scope of the press exemption by applying the two-  
 8                 part analysis presented in *Reader’s Digest Association v. FEC*: (1) whether the entity is owned  
 9                 or controlled by a political party, political committee, or candidate; and (2) whether the entity is  
 10                 acting within its “legitimate press function” in conducting the activity.<sup>58</sup>

11                 On the first part of the analysis, Courier is not owned or controlled by a political party,

12                 political committee, or candidate; it is a for-profit media company that is majority owned by

13                 Acronym, a 501(c)(4) nonprofit organization.<sup>59</sup> The Complaint alleges that Acronym “is  
 14                 ‘focused on advancing progressive causes’ through leveraging millions of dollars in campaign  
 15                 contributions to work to elect progressive candidates,”<sup>60</sup> but this statement does not establish that  
 16                 Acronym is “a political party, political committee, or candidate.” As such, whether Courier’s  
 17                 activities are within the scope of the press exemption turns on whether those activities were  
 18                 within a “legitimate press function.”

19                 The overall record indicates that Courier was acting in a legitimate press function through  
 20                 the production and distribution of both electoral and non-electoral articles. The Complaint raises

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<sup>58</sup>                 See *Reader’s Digest Ass’n*, 509 F. Supp. at 1214-15; Advisory Opinion 2011-11 at 6-7.

<sup>59</sup>                 Resp. at 1-2.

<sup>60</sup>                 Compl. ¶ 23.

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1 an allegation that Courier’s “stories are one-sided political advertisements purporting to be news  
 2 articles.”<sup>61</sup> During the 2020 election cycle, Courier produced numerous articles featuring  
 3 Democratic candidates for federal office, which it paid to promote in the targeted geographic  
 4 areas corresponding to those candidates’ voting constituencies.<sup>62</sup> With respect to the targeted  
 5 promotion of these articles, Respondents assert that because “the revenue model for quality local  
 6 journalism is in jeopardy[, b]y necessity, therefore, Courier Newsroom invests in paid  
 7 advertising to deliver its news stories to target audiences.”<sup>63</sup>

8           Although it is true that Courier appears to have promoted its electoral content, it also  
 9 appears to be the case that Courier produced a significant number of non-electoral articles.  
 10 Moreover, even Courier’s election-focused articles would qualify as a “legitimate press  
 11 function,” since they are all available to the general public and, under the “considerations of  
 12 form” analysis in *MCFL*, there is no indication that those articles were not produced in the same  
 13 manner, using the same people, and subject to the same review and distribution as its other  
 14 articles.

15           The Commission has also historically interpreted “legitimate press function” broadly,  
 16 mindful of Congress’s expressed intent that the Act not “limit or burden in any way the First  
 17 Amendment freedoms of the press and of association.”<sup>64</sup> In light of the legislative guidance that  
 18 the press exemption “assures the unfettered right of the newspapers, TV networks, and other

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<sup>61</sup>           *Id.* ¶ 22.

<sup>62</sup>           See Bloomberg Article (“McGowan is doing something else small newspapers don’t: she’s using her sizable war chest and digital advertising savvy to pay to have her articles placed into the Facebook feeds of swing-state users she’s identified as most likely to respond to them.”).

<sup>63</sup>           Resp. at 3.

<sup>64</sup>           H.R. REP. NO. 93-1239 at 4 (1974).

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1 media to cover and comment on political campaigns,” and the Commission’s own prior  
 2 determination that “[e]ven seemingly biased stories or commentary by a press entity can fall  
 3 within the media exemption,”<sup>65</sup> the current record reflects that Courier’s activities — even its  
 4 production and targeted promotion of stories that extol certain federal candidates based on their  
 5 political party — fall within the broad ambit of “legitimate press function.”

6 \* \* \*

7 In light of the congressional directive that the Act must not constrain the press’s ability to  
 8 cover and comment on elections, as well as the Commission’s historical focus on an entity’s  
 9 regular and normal activities, the activity at issue in this matter qualifies for the press exemption  
 10 because Courier is a press entity engaged in a legitimate press function. Accordingly, the  
 11 operating expenses of Courier’s activities are exempt from the Act.

12 **B. Political Committee Status**

13 The Act defines a political committee as “any committee, club, association, or other  
 14 group of persons” that receives aggregate contributions or makes aggregate expenditures in  
 15 excess of \$1,000 during a calendar year.<sup>66</sup> Notwithstanding the threshold for contributions and  
 16 expenditures, an organization will be considered a political committee only if its “major purpose  
 17 is Federal campaign activity (*i.e.*, the nomination or election of a Federal candidate).”<sup>67</sup> Political  
 18 committees are required to register with the Commission, meet organizational and recordkeeping  
 19 requirements, and file periodic disclosure reports.<sup>68</sup>

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<sup>65</sup> First Gen. Counsel’s Report at 5, MURs 5540 and 5545 (CBS Broadcasting, *et al.*) (adopted as dispositive).

<sup>66</sup> 52 U.S.C. § 30101(4)(A).

<sup>67</sup> Political Committee Status: Supplemental Explanation and Justification, 72 Fed. Reg. 5,595, 5,597 (Feb. 7, 2007); *see Buckley v. Valeo*, 424 U.S. 1, 79 (1976); *FEC v. Mass. Citizens for Life, Inc.*, 479 U.S. at 262.

<sup>68</sup> *See* 52 U.S.C. §§ 30102, 30103, 30104.

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1 The overall record indicates, for the reasons discussed in the preceding section, that  
2 Courier made no expenditures, as its operating costs are exempt from the Act. Moreover, there  
3 is no indication that any of the funds Courier received would meet the statutory definition for  
4 “contributions,” as there is no basis to conclude that any funds were given to Courier for the  
5 purpose of influencing a federal election (as opposed to funding the operations of a press entity  
6 covering and commenting on a variety of issues, including elections). Accordingly, the record  
7 indicates that Courier did not satisfy the statutory threshold for political committee status.

8                   Accordingly, the Commission dismisses the allegation that Courier violated 52 U.S.C.  
9   §§ 30102, 30103, and 30104 by failing to register, organize, and report as a political committee.

**C. The Commission Finds No Reason to Believe With Respect to the Allegations as to Acronym and McGowan**

12 The available information does not indicate that Acronym, as Courier's owner, or  
13 McGowan, in her capacity as Courier's CEO, violated the Act or Commission regulations. As  
14 discussed above, the Commission dismisses the allegations as to Courier, and, in any event, the  
15 Complaint does not allege a cognizable violation by Acronym or Courier because the provisions  
16 of the Act that Courier is alleged to have violated do not appear to contemplate liability for an  
17 entity's owners or officers.<sup>69</sup> Accordingly, the Commission finds no reason to believe with  
18 respect to the allegations as to Acronym and McGowan.

<sup>69</sup> See 52 U.S.C. § 30102 (prescribing organizational requirements for political committees and recordkeeping duties for committee treasurers); *id.* § 30103 (prescribing registration and termination requirements for political committees); *id.* § 30104 (prescribing reporting requirements for political committees and other persons that make qualifying independent expenditures and electioneering communications, and filing requirements for committee treasurers); *see also* First Gen. Counsel’s Report at 33, MUR 7153 (Hillary for America, et al.), (recommending dismissal of allegations for which the Complaint “does not appear to allege a cognizable violation”); Certification ¶ 1.i, MUR 7153 (May 20, 2021) (dismissing those allegations).