



California Fair Political Practices Commission

March 15, 1990

Paul Koplín
Executive Director
The California Channel
Third Floor, 10951 W. Pico Blvd.
Los Angeles, CA 900064

Re: Your Request For Advice
Our File No. A-90-121

Dear Mr. Koplín:

You have requested advice under the lobbying disclosure provisions of the Political Reform Act (the Act).^{1/}

QUESTION

Does certain activity The California Channel proposes to engage in meet the definition of lobbying activity which would require its employees to register and file disclosure reports as lobbyists, or which would require The California Channel to register and file reports as a lobbyist employer?

CONCLUSION

The activities described in your letter meet the definition of influencing or attempting to influence legislative action. Therefore, if any employee of The California Channel engages in these activities to the extent that the thresholds for qualifying as a lobbyist are met, the employee will meet the definition of a "lobbyist," and must file disclosure reports. If any employee of The California Channel qualifies as a lobbyist, The California

1/ Government Code Sections 81000-91015. All statutory references are to the Government Code unless otherwise indicated. Commission regulations appear at 2 California Code of Regulations Section 18000, *et seq.* All references to regulations are to Title 2, Division 6 of the California Code of Regulations.

Channel must register and file disclosure reports as a lobbyist employer. In addition, even in the event that no individual employee qualifies as a lobbyist, if The California Channel spends \$5,000 or more in a calendar quarter in connection with the described activities, it would be required to file reports disclosing the payments.

ANALYSIS

The Act defines "influencing legislative action" as follows:

"Influencing legislative or administrative" means promoting, supporting, influencing, modifying, opposing or delaying any legislative or administrative action by any means, including but not limited to the provisions or use of information, statistics, studies or analyses.

(Section 82032.)

"Legislative action" means:

The drafting, introduction, consideration, modification, enactment or defeat of any bill, resolution, amendment, report, nomination or other matter by the Legislature or by either house or any committee, subcommittee, joint or select committee thereof, or by a member or employee of the Legislature acting in his official capacity.

"Legislative action" also means the action of the Governor in approving or vetoing any bill.

(Section 82037. Emphasis Added.)

As you can see, the Act's definitions of "legislative action" and "influencing legislative action" are very broad, and include attempting to influence a legislative official to "consider," in addition to a "bill, resolution, amendment, report, or nomination," any "other matter."

Therefore, even though The California Channel's contacts with legislative officials do not involve any pending or proposed legislation, the purpose of the contacts is to provide information upon which, it is hoped, the Legislature will base a decision which will lead to a decision to implement the proposal presented to the Legislature by The California Channel.

In a formal opinion, the Commission provided that, in certain circumstances, contacts with legislative officials would not be attempts to influence legislative action. In In re Cohen (1975) 1 FPPC 10, the Commission concluded that the selection of a

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contractor by individual legislators for the mailing of their legislative newsletters would not constitute legislative action because each individual legislator was able to select the contractor for his or her own newsletter. The situation discussed in this letter is distinguishable from the situation addressed in Cohen, however, because the decision to permit videotaping of legislative proceedings would be made by the Legislature as a body, or by a committee of the Legislature.

You also have asked us whether the exemption in Section 86300(b) applies to The California Channel. Section 86300(b) provides that the lobbying provisions contained in Chapter 6 of the Act do not apply to:

Any newspaper or other periodical of general circulation, book publisher, radio or television station (including any individual who owns, publishes, or is employed by any such newspaper or periodical, radio or television station) which in the ordinary course of business publishes news items, editorials, or other comments, or paid advertisement, which directly or indirectly urge legislative or administrative action if such newspaper, periodical, book publisher, radio or television station or individual, engages in no further or other activities in connection with urging legislative or administrative action other than to appear before a committee of the Legislature or before a state agency in support or in opposition to such action....

This exemption does not apply to The California Channel for the following reasons:

(1) The activities which The California Channel proposes to engage in involve "meeting with legislators to discuss the report's recommendations and seeking their support for the concept of televising legislative sessions." This activity does not meet the standard set out in Section 86300(b) for activities which are exempt. The exemption set out in Section 86300(b) applies only to "news items, editorials, or other comments, or paid advertisement" which are published "in the normal course of business."

(2) The California Channel does not appear to meet the definition of "a newspaper, or other periodical of general circulation, book publisher, radio or television station."

You have indicated that, if The California Channel is successful in its efforts to convince the Legislature to install and operate remote controlled cameras, and The California Channel were to gain access to the video signal and, therefore, be able to broadcast legislative hearings, it would become a "noncommercial television network." At the point The California Channel actually

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becomes a television station, the news items, editorials, or other comments, or paid advertisements it broadcasts in the normal course of business would not meet the definition of "influencing legislative action," as specifically exempted by Section 86300(b).

In summary, the activities described in your letter, i.e., meetings with legislators to discuss The California Channel's recommendations and to seek legislative support for televising legislative sessions, meet the definition of "influencing legislative action."

If any individual employee of The California Channel meets one of the qualification tests set out in Regulation 18239 (copy enclosed), The California Channel must register and file reports as a lobbyist employer, and the employee must file reports as a lobbyist. (Sections 86113, 86115(a).)

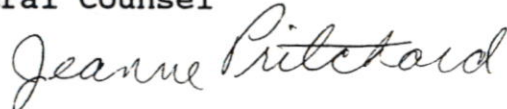
If no employee meets the definition of a lobbyist, but The California Channel spends \$5,000 or more in a calendar quarter, it must file reports pursuant to Section 86115(b).

Enclosed for your information is the Commission's "Information Manual On Lobbying Provisions Of The Political Reform Act." Please contact the Commission's Technical Assistance and Analysis Division at (916) 322-5662 if you have questions concerning the Act's lobbying registration and reporting provisions.

If you have any questions about this letter, please call me at (916) 322-5662.

Sincerely,

Kathryn E. Donovan
General Counsel



By: Jeanne Pritchard
Division Chief
Technical Assistance and
Analysis Division