



**U.S. Department of Justice**

National Security Division

*Counterintelligence and Export Control Section*

*Washington, DC 20530*

March 14, 2023

**VIA EMAIL**

[Requestor]

[Address]

Re: Request for an Advisory Opinion Pursuant to 28 C.F.R. § 5.2

Dear [Requestor]:

This is in reference to your letter of February 7, 2023 (“the February 7 Letter”), in which you request an advisory opinion, pursuant to 28 C.F.R. § 5.2, with respect to the obligation of your client, [Company A], to register pursuant to the Foreign Agents Registration Act of 1938, as amended, 22 U.S.C. § 611 *et seq.* (“FARA” or “the Act”). Specifically, your letter requests a determination either that [Company A] is not acting as an agent of a foreign principal pursuant to Sections 611(c) and (d) and therefore registration under FARA is not required, or that [Company A] qualifies for an exemption from registration pursuant to Section 613(d). Based upon the representations in your letter, as well as the additional representations you provided on February 17, 2023, at our request, we do not contest your assertion that [Company A] is not acting as an agent of a foreign principal and thus is not required to register under FARA.

**I. Background**

According to the February 7 Letter, [Company A] is a global news startup co-founded in [Year] by [Person 1], former media columnist at [Company B] and [Person 2], former CEO of [Company C]. The letter asserts that [Company A] operates an online platform for news aimed at college-educated [Redacted] speakers around the world and hosts events intended to bring together informed audiences.

To that end, [Company A] will be hosting a three-day event in [Date] in [Foreign City], [Foreign Country] provisionally titled [Redacted] (the “Event”). [Company A] is working with two counterparties, [Counterparty 1], a non-governmental think tank headquartered in [Foreign Country], and the [Counterparty 2], an entity in the [Foreign Government Ministry], to bring together high-profile CEOs and business leaders from [Foreign Country], the United States, and other global stakeholders to participate in journalism-driven keynote addresses, panel discussions, and breakout sessions. According to [Company A], a counterparty is required by [Foreign Government]’s law for a foreign entity to organize a conference in [Foreign Country]. [Counterparty 1] and [Counterparty 2] will be responsible for securing standard [Foreign Government] approvals for the Event and helping recruit [Foreign Government] private and public sector speakers and attendees based on lists developed by [Company A] with the input of [Counterparty 1] and [Counterparty 2].

[Company A] and [Counterparty 1] intend this Event to be the first in a series of annual dialogues (the “Series”), and [Company A] will seek corporate sponsorships with the intention of making a commercial profit from the Event. [Company A] intends that the majority of the corporate sponsorships will come from U.S. companies, and the remainder from [Foreign Government] companies as well as other non-U.S./non-[Foreign Government] companies. [Company A] reports that it will not take sponsorship money from any [Foreign Government] state-owned enterprise or [Foreign Government] body.

In addition to the corporate sponsors, the Event will involve an Advisory Council comprised of prominent figures from [Foreign Country], the United States, and third-party countries. Members of the Advisory Council will be finance, business, and policy thought leaders from the private sector, civil society, and academia. This may include [Foreign Government] leaders of state-owned enterprises. The February 17 Letter informs us that the Advisory Council will advise [Company A], [Counterparty 1], and [Counterparty 2] on various aspects of the project, and that [Company A] expects the Advisory Council to play a role in identifying speakers and audience members. Attendees at the Event will include CEOs from the United States, [Foreign Country], and other countries—primarily drawn from Fortune 100 companies—and other invited guests.

[Company A] represents that it will retain full editorial and commercial control of the Event, including control over who is invited to attend, the format, panel topics, speakers, sponsors, marketing, and press relations. [Company A] also represents that it will control the content presented at the Event, although it is unclear how [Company A] will achieve this goal. [Company A] states that it will have sole responsibility and complete discretion for designing and delivering sponsor benefits, setting sponsorship fees, accepting sponsor commitments, managing the event budget. [Company A] will recoup all profits and bear the risk of any financial loss associated with the Event.

[Company A] asserts that it will be engaged in bona fide news or journalistic activities, which may include the solicitation or acceptance of advertisements, subscriptions, sponsorships, or other compensation therefor. [Company A] represents that it will not be directed, supervised, or controlled, and none of its policies will be determined by, any foreign entity. [Company A] represents that it will maintain complete editorial independence regarding the Event.

## II. FARA Analysis

FARA’s purpose is to inform the American public of the activities of agents working for foreign principals that are intended to influence U.S. Government officials and/or the American public with reference to the domestic or foreign policies of the United States or with reference to the political or public interests, policies, or relations of a foreign country or foreign political party.

The definition of “foreign principal” contained in FARA includes “a government of a foreign country and a foreign political party,” as well as a “partnership, association, corporation,

organization, or other combination of persons organized under the laws of or having its principal place of business in a foreign country.” 22 U.S.C. § 611(b)(1) and (3).

Generally speaking, a party is an “agent of a foreign principal” that must register under FARA if it acts “in any . . . capacity at the order, request, or under the direction or control, of a foreign principal or of a person any of whose activities are directly or indirectly supervised, directed, controlled, financed, or subsidized in whole or in major part by a foreign principal and who directly or through any other person,” and within the United States:

- (i) engages in political activities for or in the interests of such foreign principal;
- (ii) acts as public relations counsel, publicity agent, information-service employee or political consultant for or in the interests of such foreign principal;
- (iii) solicits, collects, disburses, or dispenses contributions, loans, money, or other things of value for or in the interest of such foreign principal; or
- (iv) represents the interests of such foreign principal before any agency or official of the Government of the United States.

*See* 22 U.S.C. § 611(c)(1).

However, the Act’s definition of “agent of a foreign principal” expressly does not include “any news or press service or association organized under the laws of the United States . . . solely by virtue of any bona fide news or journalistic activities, including the solicitation or acceptance of advertisements, subscriptions, or other compensation therefor, so long as it is at least 80 per centum beneficially owned by, and its officers and directors, if any, are citizens of the United States, and such news or press service or association . . . is not owned, directed, supervised, controlled, subsidized, or financed, and none of its policies are determined by any foreign principal . . . or by any agent of a foreign principal required to register under this subchapter.” *See* 22 U.S.C. § 611(d).

Based on the facts provided and representations offered, [Company A] would not be acting as an agent of a foreign principal within the meaning of FARA for two reasons. First, [Company A] is not acting act the “order, request, or under the direction and control, of a foreign principal.” *See* 22 U.S.C. § 611(c)(1). Although [Counterparty 1] and [Counterparty 2]] are foreign principals as defined in the Act, [Company A] specifically represented that these entities serve purely as counterparties required by [Foreign Country]’s law and exercise no degree of direction or control over [Company A], in that [Company A] will retain the authority to make all final decisions regarding the Event/Series guest invitation list, attendees, format, topic, speakers, sponsors, content, marketing, and press relations. [Company A] further represented that it will not be directed, supervised, or controlled, and none of its policies will be determined, by any foreign entity.

Second, [Company A] does not fall within the definition of “agent of a foreign principal” as provided in Section 611(d) because in its February 7 Letter, [Company A] states (1) that it is a news or press service or association organized under the laws of the United States that is engaged in bona fide news or journalistic activities, including the solicitation or acceptance of

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advertisements, subscriptions, or other compensation; (2) that it is at least 80 percent beneficially owned by, and its officers and directors, if any, are citizens of the United States; and (3) that it is not owned, directed, supervised, controlled, subsidized, or financed, and none of its policies are determined, by any foreign principal or by any agent of a foreign principal required to register under FARA.

Please note that any change in the facts and circumstances you relayed to us may change your client's status and it could be required to register. If any such change does occur, you or [Company A] should contact us immediately. The present advisory opinion is expressly limited to the facts and conclusions stated herein.

We will treat your submission in accordance with 28 C.F.R. § 5.2(m). Please contact this office by e-mail to [FARA.Public@usdoj.gov](mailto:FARA.Public@usdoj.gov) or by telephone at (202) 233-0776, if you have any questions.

Sincerely,

*/s/ Jennifer K. Gellie*

Jennifer Kennedy Gellie  
Chief  
FARA Unit