



May 11, 2012

Jonathan Wayne  
Executive Director  
Commission on Governmental Ethics and Election Practices  
135 State House Station  
Augusta, ME 04333-0135

Re: Proposed Rule 2012-P10 and 2012-P11

Dear Director Wayne:

On behalf of Maine Citizens for Clean Elections (“MCCE”), thank you for the opportunity to submit these additional comments on the “press exemption” language circulated last month.

MCCE is a nonpartisan organization that has been advocating for the full and effective implementation of the Maine Clean Election Act since it was passed in 1996. MCCE also supports effective disclosure and transparency in campaign funding as vital to our democratic process.

Subparagraph a. of the draft dated April 3, 2012 provides that the person who owns, controls or operates a broadcasting station or publication must be identified to the public in order for the press exemption to be available. We support this requirement as necessary to ensure effective disclosure. While there is a place for some anonymous speech, allowing an anonymously owned entity to avail itself of the press exemption is contrary to the long history of this exemption in state and federal law. Any other approach would leave a large loophole in the disclosure system.

Subparagraph b. of the draft provides that the entities who own, control or operate the broadcasting station or publication may not be reimbursed for the publication at issue. As a technical matter, we doubt that the situation would often arise where reimbursement is paid *directly to the owners*, as opposed to reimbursement the broadcasting station or publication itself. More fundamentally, where there is reimbursement paid to the broadcasting station or publication, *it is the reimbursement itself that is the expenditure*, not the act of publication, which is nothing more than the fulfillment of a contract. Perhaps this point could be clarified.

Subparagraph c. provides that a broadcasting station or publication owned by an interested party may not utilize the press exemption. We support this provision, and note that it is already a feature of Title 21-A. See 21-A M.R.S.A. §1012(3)(B)(1).

#### **Member Organizations**

AARP Maine, Common Cause Maine, EqualityMaine, League of Women Voters of Maine, League of Young Voters, Maine AFL-CIO, Maine Council of Churches, Maine People's Alliance/Maine People's Resource Center, Maine State Employees Association/SEIU Local 1989, Maine Women's Lobby, NAACP-Portland, Sierra Club Maine Chapter

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Finally, MCCE also supports the last paragraph of the revised “press exemption.” This is a reasonable attempt to make clear what kind of new media are encompassed by the exemption. Certainly a one-time post on a web site should not be considered a “periodical” within the meaning of Title 21-A. The standard set forth in the draft considers whether there have been periodic publication on a variety of topics – both factors which we believe are relevant and reasonably intended to distinguish the general media from publications which are exclusively directed at a campaign. We do not believe the latter type of publication should receive a blanket exemption from reporting.

Thank you again for considering these comments. We recognize that this is a complex and evolving area of law, and we commend the Commission for a very reasonable attempt to secure the public’s interest in full disclosure of all relevant communications.

We look forward to continuing to work with you and the Commission.

Sincerely yours,

A handwritten signature in black ink that reads "John Brautigam". The signature is written in a cursive, flowing style with a large initial "J" and a long, sweeping underline.

John Brautigam