COUNCIL on FOUNDATIONS

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REPORT SUMMARY

"The IRS and Nonprofit Media: Toward Creating a More Informed Public"

A Report of the Nonprofit Media Working Group of the Council on Foundations

Over the last several decades, accountability reporting, especially at the local level, has contracted dramatically, with potentially grave consequences for communities, government responsiveness, and democracy. Nonprofit media has the potential to partly fill this vacuum but faces obstacles as a result of outdated IRS rules.

A report by the Nonprofit Media Working Group (NMWG) of the Council on Foundations, "The IRS and Nonprofit Media: Toward Creating a More Informed Public," makes specific recommendations to the IRS that maintain essential distinctions between for-profit and nonprofit media but remove obstacles to the types of innovation that are needed to fill the gaps in nonprofit news, especially accountability journalism.

The report highlights five key problems with the current IRS approach:

1. Applications for tax-exempt status are processed inconsistently and take too long.
Numerous reports indicate that when communities need tax-exempt media, the process for application review and approval has become inconsistent, in some cases taking as long as three years.

2. The IRS approach appears to undervalue journalism.
The IRS has taken the position in several cases that journalism is not educational. This position is inconsistent with the applicable federal tax regulations, which define "educational" as "the instruction of the public on subjects useful to the individual and beneficial to the community."

3. The IRS approach appears to inhibit the long-term sustainability of tax-exempt media organizations.
Since the 1960s, the IRS has required that "the manner in which the distribution (of nonprofit media) is accomplished must be distinguishable from ordinary commercial publishing practices." Yet, on the Internet, media distribution is identical.

4. Confusion may be inhibiting nonprofit entrepreneurs trying to address the information needs of communities.
The IRS focus on similarity in business practices between nonprofit and for-profit media has led to confusion, even among those with tax-exempt status, about what they can and cannot do.

5. The IRS approach does not sufficiently recognize the changing nature of digital media.
The digital age revolutionized media. Now, anyone with a personal computer can publish through various platforms, from websites to social media, in much the same way as for-profit media.

The Nonprofit Media Working Group Recommendations:
Recognizing that tax-exempt media entities are different from commercial entities, and should be held to rigorous standards in order to receive the tremendous benefit of being tax exempt, the group makes the following recommendations to the IRS:

- The IRS methodology for analyzing whether a media organization qualifies for exemption should not take into account irrelevant operational similarities to for-profits.

- The IRS should focus on whether the media organization is engaged primarily in educational activities that provide a community benefit, as opposed to advancing private interests, and whether it is organized and managed as a nonprofit, tax-exempt organization.

- News and journalism do count as "educational" under the tax-exempt rules.

- The IRS should maintain the key structural requirements for being a tax-exempt media organization that properly distinguish it from a commercial enterprise, such as: it cannot have shareholders or investors, it must have a governing board that is independent of private interests, and it cannot endorse candidates or lobby lawmakers.

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