

Matthew Sanderson Weighs in on Recently Released FARA Advisory Opinions in POLITICO

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POLITICO Influence

DOJ's FARA Headscratchers: The Justice Department's FARA Unit released its latest batch of advisory opinions late last week, several of which had experts who advise clients on the foreign agent law scratching their heads.

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Matthew Sanderson, an attorney with Caplin & Drysdale and co-chair of the American Bar Association's FARA task force, told PI that he imagines DOJ would have provided a fuller analysis if the advisory opinion was meant to have such broad implications as suddenly requiring the Twitters of the world to register as foreign agents for allowing a foreign government to create a profile.

Still, he added, "I think social media platforms and other internet platforms with subscribers that would include foreign governments need to be on notice that this could be a trend rather than a blip in the department ... looking at platforms more closely" — though caveats apply.

More confounding in the latest release of advisory opinions, both Rosenstein and Sanderson said, was how the digital platform opinion appeared to be contradicted by another advisory opinion issued just a month earlier. In that opinion, the department determined that another unidentified U.S. company did not need to register for its work acting as an intermediary to arrange paid speeches for a foreign politician in "a private capacity and not as a representative" of the politician's government or political party.

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Sanderson, meanwhile, pointed to DOJ's 2019 lawsuit against RM Broadcasting seeking to force the U.S.-based company to register for re-broadcasting Russian state-owned media in the U.S. Both Sanderson and Rosenstein argued that while the frequent guidance and insight into how the DOJ is viewing FARA is more helpful than getting nothing, they also underscore how fact-specific and vague the statute is.

"These advisory opinions really drive home the point that I've always made to clients, which is: This is still a developing and uncertain area of the law," Sanderson told PI. "Even though this has been around for 80-plus years, there are uncertainties built into the vague and ambiguous nature of the statute."

For the full article, please visit *POLITICO's* website.

For all other FARA related news, please visit FARA.us, a comprehensive online resource of information about the Foreign Agents Registration Act.

Attorneys

Matthew T. Sanderson

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