PHILANTHROPIC OPTIONS FOR NEWSPAPER OWNERS:

A PRACTICAL GUIDE

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EXECUTIVE SUMMARY

An emerging class of news businesses is modeling a promising path to sustainability — one drawn from the community itself. Their solution: pursuing nonprofit status rather than the strictly for-profit corporate form, embarking on greater engagement with philanthropic models that reimagine how local news is funded.

Local news organizations play a fundamental role in educating and informing citizens about what is happening in their communities. Although historically this role has been fulfilled by a for-profit corporation, it is well-aligned with IRS guidelines for tax-exempt nonprofit organizations.

From public radio stations to the newly formed American Journalism Project, non-profit local journalism is in a period of rapid expansion across the United States. The success of the nonprofit local news startup The Texas Tribune — now in its 10th year of operation — has inspired the creation of the American Journalism Project, a $50 million venture philanthropy fund to invest in nonprofit local news startups. In a different approach, ProPublica (a nonprofit focused exclusively on investigative reporting) launched the ProPublica Local Reporting Network in 2018. The purpose of the network is to bring ProPublica's investigative resources (funded by philanthropy) to strengthen and amplify local reporting, many of which are for-profit newsrooms.

Other nonprofit news initiatives have emerged (including Report for America and the Table Stakes Project), but the fact remains that the overwhelming majority of local reporting in the United States is done by journalists employed by for-profit entities. Most of those entities have been experiencing profound business challenges over the last few years, and in this environment the appeal of tapping philanthropic support is growing. Much as hospitals and universities stand as robust, nonprofit community pillars, many local newspapers across the United States might begin to move in this direction. Bold leadership is needed to chart the way toward a new era of civic news media.

This report offers some fundamental ground rules for decision-makers and provides a foundational explanation of relevant tax policy and implications. It also directly considers four possible models through case studies:

- The *Salt Lake City Tribune*, which is converting from a profit-seeking entity into a tax-exempt organization.
- The *Tampa Bay Times*, which has kept the news organization as a taxable for-profit, but transferred the ownership to a nonprofit organization.
- The hybrid model of *The Philadelphia Inquirer*, where a nonprofit owns the news company, diminishing immediate financial pressures, alongside a separate endowment designed to encourage innovation.

- The *Seattle Times,* which has taken a compelling but less dramatic approach by partnering with an existing community foundation.

While these models all involve relatively large local news entities, there are examples of smaller local newspapers as well as national chains taking similar steps. Owners who explore these pathways will be helping to chart evolving territory with the IRS, which has shown favorable signs toward new kinds of proposals.

A crucial consideration across all the case studies is the ongoing importance of sustainable revenue streams. In many of the structures outlined below, the pressure for profitability is diminished. But a business plan is still essential in part because the size and scale of most local newspapers is large and complex, and also because of IRS rules do not allow nonprofit ownership to exist for the sole purpose of helping subsidize a money-losing, for-profit operation. Regardless of the structure, a local news company is still obligated to find long-term sustainable revenue streams.

Another important issue revolves around the ethics of reporting and transparency around funding. The for-profit news industry has a long history of separating advertising and commercial interests from the newsroom, maintaining strict ethical guidelines to prevent advertisers from influencing coverage. Indeed, these “bright lines” are an essential part of maintaining public trust in the news media. Depending on the model, new guidelines may be necessary to continue to provide a separation of funders from news coverage. One way this is solved (as covered in the Seattle Times model) is to structure philanthropic support around broad local reporting topics, or “beats.”

This report presents a provisional playbook for owners, shareholders and decision-makers that considers both the conversion of an existing for-profit news organization into a nonprofit organization and a variety of hybrid possibilities for engaging with philanthropy. Ultimately, newspaper owners stand at an important crossroads in the history of their communities and in news media history, with strong possibilities now emerging for owners to take visionary steps forward.

THE LEADERSHIP OPPORTUNITY

Newspaper owners have a set of historic opportunities before them, both in terms of creating informed and engaged communities and developing a lasting legacy of civic leadership. As the digital transition and the new economics of the internet age have created dire challenges for most news organizations in the long run, hundreds of owners and ownership groups across America have wondered how, despite the trends of the for-profit news industry, they might ensure their local institution endures and thrives into the next generation.

What many owners have within their control is the capacity to take the wealth of social capital and local newspapers' rich history of educating and informing their communities to leverage that foundation towards future innovation and sustainability. There is still time to manage news assets in a prudent and even visionary way towards a brighter future.

However, the rate of disruption and the depth of financial losses among many newspapers means that time is not on their side. If local news organizations fail, all of their expertise, their institutional memory and the value of their brand as a force — not to mention their role as a convener for voices, facts and ideas — will go to waste. This has happened already across the country. In any owner's calculus, it should be noted that it is often less expensive to invest serious effort in saving something now, rather than trying to start it again from scratch once it is gone.

While nonprofit and foundation pathways are not appropriate for all, serious directions are being explored for setting up local newspapers in a sustainable way; owners may have the opportunity to author a new chapter of civic health, similar to the ways nonprofit hospitals and universities shape the civic wellbeing of their communities. Indeed, owners who boldly lead in this direction will likely play a central role in supporting community continuity, beyond the civic benefit their coverage already provides. It is a rare opportunity to lead the industry into new territory for many peers across the United States, defining the terms for a new era for civic news media and setting the stage for more innovation in the future.

THE BUSINESS LANDSCAPE

The business of local newspapers has been collapsing over the last 15 years. The primary source of revenue for newspapers — print advertising — has faced year-over-year double-digit declines. In 1990, total annual newspaper advertising revenue in the United States was estimated at $30 billion; by 2000, it had climbed to just shy of $50 billion. A rapid and pitched annual decline since 2000 continues to reach new lows; most recently, 2018 left the industry with an estimated $14 billion in advertising revenue (including digital).[1]

1 https://www.journalism.org/fact-sheet/newspapers/

Due to a variety of business tactics (including variable pricing), circulation revenue has not declined as precipitously. Nevertheless, actual circulation has also faced annual declines (both Sunday and seven day a week). Circulation traditionally represented approximately 20% of revenue — and so despite the modest declines in circulation, it represents a small portion of the overall revenue. While digital subscription has shown recent promise, the collapse of advertising revenue has dramatically changed the economic equation of newspaper ownership.

The true health of the industry is difficult to judge. A balance sheet is not always the source of truth: an estimated 10 percent of daily newspapers have allegedly used accounting practices to hide their unprofitability. This ugly truth was brought to light with the literal overnight demise of The Vindicator in Youngstown, Ohio, whose owners acknowledged only two profitable years out of the last 22.[2]

In the midst of these headwinds, the importance of the local press — the topics it covers, how it is shared, the speed at which it is conveyed, the accuracy of information, and at what level of quality — has never been more apparent in both our local communities and our national politics. Subscribers continue to cite aspects of "community" as a primary reason they pay for news. One recent study found 31% of new subscribers named "supporting local news" as their primary reason for becoming customers — not the weather, not sports coverage, but the civic-minded act of supporting journalism in their backyard.[3] Moreover, studies show that consumers trust their local news organizations at vastly higher rates than they trust the media in general.

Between the challenging business outlook and the motivations of subscribers, more companies are considering philanthropic options to support newsrooms. These philanthropic options cover a range of potential approaches — from the wholesale conversion of a corporation to a nonprofit, to working with a philanthropic organization adjacent to the for-profit corporation to support specific newsgathering capabilities. This guide outlines the main options with specific case studies and recommendations for how to build philanthropic options for news organizations. It is written for owners, shareholders and decision-makers considering pursuing philanthropic models to support local news.

WHERE TO BEGIN?

For-profit news organizations can and do receive grants from philanthropic foundations to develop coverage on important public interest issues. The Los Angeles Times, for example, received a $1 million grant from the Ford Foundation in 2012 to expand its coverage of key beats, including immigration and ethnic communities in Southern California, the southwest U.S. border, and the emerging economic powerhouse of Brazil.[4] At the time, the newspaper was owned by the publicly traded Tribune Company, headquartered in Chicago.

2 https://www.niemanlab.org/2019/07/in-youngstown-an-american-city-loses-its-only-daily-newspaper-and-it-wont-be-the-last/

3 https://www.americanpressinstitute.org/publications/reports/survey-research/paths-to-subscription/

4 https://www.latimes.com/archives/la-xpm-2012-may-18-la-ford-foundation-los-angeles-times-20120517-story.html

But more expansive options exist. The Salt Lake Tribune recently announced a plan to completely convert its corporation from a for-profit C-corp to a non-profit 501(c)(3) organization, with the owners effectively giving up all future returns. The Tampa Bay Times has been owned by the nonprofit Poynter Institute for Media Studies (a journalism school and research institution) for decades. In a complex model that tries to fuse together traditional newspaper economic incentives with grantmaking to fund innovation around business models, the Philadelphia Inquirer and the Lenfest Institute exist side-by-side. Many newsrooms are exploring partnerships with community foundations; we examine the approach the Seattle Times has taken.

Regardless of the approach you are considering, there are a few important ground rules:

1. **MAKE SURE YOU HAVE A BUSINESS PLAN.**
   Revenue matters. Most local newspapers, even if they are greatly diminished, still operate a complex business with revenues and expenses that exceeds that of most large local non-profits. Developing a philanthropic approach to journalism does not eliminate business challenges, but it will change the incentives of the organization and potentially reduce the intensity of the financial pressure the business faces. Moreover, most local news organizations are so diminished that they may need capital investment to build back up to maximize the positive impact on their community.

2. **CLEAR, SIMPLE OWNERSHIP OPENS UP THE GREATEST NUMBER OF OPTIONS.**
   A messy capitalization table or diffuse ownership will minimize philanthropic options available to a news organization. For publicly traded companies, a direct conversion to a non-profit is a great challenge as it will zero-out shareholder value. Most of the case studies we've examined have a single owner or a very tightly held ownership. In most cases, the companies were privately held. Additionally, existing joint operating agreements can complicate any changes in tax status. It is worth noting that a significant challenge for many for-profit news companies revolved around pensions. Resolution of pension liabilities is complicated and highly specific to the circumstances surrounding individual companies.

3. **MAKE SURE YOU UNDERSTAND THE TAX IMPLICATIONS OF ANY CHANGES.**
   There is the potential for significant tax liability depending on the structure of the organization and the way the assets are sold or converted to a tax-exempt vehicle. The form the transition takes can vary, including (for example) an asset transfer or a merger with an existing 501(c)(3) organization as the surviving entity. Each of these tactics carry different potential liabilities. The advice offered here is no substitute for professional tax and legal advice. Fully and completely review your situation with tax and law professionals.

4. **EVALUATE THE POTENTIAL FOR PHILANTHROPIC SUPPORT FROM THE COMMUNITY.**
   As the old saying goes, money doesn't grow on trees. Be realistic about the philanthropic revenue opportunities available to your publication. Depending on the size and complexity of the approach you select, a fundraising feasibility study is worth considering. Realize at the outset that raising philanthropic funds is a highly professionalized business

with best practices and specific skill sets, from grant management to small dollar donor retention. Your news organization's ability to sustain a philanthropic model will likely depend on new competencies and areas of domain expertise that will need to be cultivated and maintained indefinitely.

5. **ONCE YOU HAVE A PLAN, GET EVERYONE ON BOARD BEFORE ACTING.**
   The first step is to evaluate the current state of the business as well as the market it is operating in and assess what's best for the organization's future. The second step is to get all stakeholders — most importantly the owners and those with fiduciary responsibilities (like the board of directors) — aligned on a broad strategic vision which may include forgoing future returns on an existing investment.

MODELS TO CONSIDER

Each of the case studies below explore potential models, and while the circumstances of each entity and owner are unique, they offer an outline of possible approaches for a news organization to explore and evaluate.

MODEL 1: FOR-PROFIT CONVERTING TO NON-PROFIT

SALT LAKE CITY TRIBUNE

The most dramatic option available to for-profit news corporations is to simply convert the organization from a profit-seeking corporation into a tax-exempt organization. More than anything else, this requires ownership willing to write off their financial investment in the business and explicitly convert it into a community institution. The purpose of this kind of model is to turn the local newspaper into a community asset, supported directly by the community. We're in the middle of the first major conversion of this kind — enter *The Salt Lake Tribune* and Paul Huntsman.

"Utah's Independent Voice Since 1871," proclaims the masthead of The Salt Lake Tribune. For more than 100 years, the newspaper was family owned, and in the late 1990s it underwent a series of ownership changes. Despite having the largest circulation in Utah of any publication, the newspaper has struggled financially, with four rounds of layoffs over the past eight years. In the most recent round of layoffs in 2018, 34 of 90 staff were let go.

In 2016, the Huntsman family bought the paper from Digital First. Digital First — majority-owned by the hedge fund Alden Global Capital — has been widely assailed for the multiple rounds of layoffs in the newsroom. The Huntsman family's purchase of the Tribune was widely seen as a move to save the paper. But, as the 2018 layoffs showed, the family has been unable to stem the tide of red ink. And with a joint operating agreement set to expire in

2020, the likelihood of surviving head-to-head competition with the Deseret News was not high.

In May 2019, the Huntsman family announced its intention to transition the Salt Lake City Tribune to a 501(c)(3) corporation to allow it to continue to serve Utah's communities with high quality local journalism. The family, already known for its philanthropy, made the decision to convert the for-profit corporation into a tax-exempt non-profit organization because of their commitment to the civic life of the Salt Lake City region.[5]

In the months preceding the announcement, the family had already begun laying the groundwork for the change to a philanthropic model, engaging the community to develop a base of donors and supporters ready to enable the shift. Legacy was critical — and the Huntsmans recognized that to enable the publication to survive and thrive for another 100 years, it needed an endowment that would deliberately place their interests in the long-term.

"I have always seen The Salt Lake Tribune as Utah's institution, much like our libraries, hospitals and the arts and cultural organizations that enrich our lives and reflect our shared civic goals," president and CEO of Huntsman Family Investments, LLC, Paul Huntsman, now publisher and owner of the Tribune, wrote to readers when the shift was announced. "By transitioning to a nonprofit business model we are ensuring that Utahns will continue to have the impactful, empowering journalism they need in perpetuity."

The Salt Lake Tribune proposal to the IRS lays out two separate nonprofit organizations. The newspaper itself will become a nonprofit, but the plan also calls for the creation of the Utah Journalism Foundation, whose endowment will attempt to support local outlets across the region — most notably the Tribune. The separate foundation also enables the collective to bring regional funders to the table for large endowment gifts to support journalism beyond Salt Lake City. Notably, the proposal to the IRS did not include any legacy assets.

The newspaper officially submitted its paperwork to the IRS on May 30, 2019. The Salt Lake Tribune's 501(c)(3) application has not received approval from the IRS, and a formal response from the IRS is not expected until early 2020. The Huntsmans will be breaking new ground: if approved, the Tribune will be the first legacy newspaper in America to completely convert from a for-profit corporation to a non-profit tax-exempt organization. Finalizing the nonprofit switch could take as long as a year, pending review by the IRS, and is further complicated by the six decades old joint operating agreement (JOA) between The Tribune and its main competitor, the *Deseret News*, which is a for-profit corporation wholly owned by The Church of Jesus Christ of Latter-day Saints.

The most significant step in the conversion from a for-profit entity to a tax-exempt organization requires the owners — Huntsman Family Investments — to give up the individual ownership of the Salt Lake Tribune. This is possible in a large part because the Huntsman family owns 100% of PCH Tribune, which is the sole owner of The Salt Lake Tribune.

A secondary consideration is that the paper will also have to give up political endorsements. But the good news is that, provided the IRS approves, charitable contributions to The Salt

5 https://www.sltrib.com/opinion/editorial/2019/05/08/letter-tribune-owner/

Lake Tribune will become tax-deductible. Unlike other models reviewed here, this allows the news organization to become a community-funded enterprise that can receive donations directly from individuals without the need to partner with a charitable foundation. The newspaper will be governed by a community board and essentially become a community asset, much like a major local museum or cultural institution.

If this approach is approved by the IRS, it would be the first conversion of a for-profit legacy newspaper to a nonprofit organization. It could provide the most complete template for dealing with the tax and business issues.

KEY TAKEAWAYS

- Prior to announcing the change, the Huntsman family deeply engaged the community to develop a strong network of philanthropic support.
- As part of these early discussions with civic and community leaders, it became clear that to ensure long-term viability an endowment would be important.
- For the endowment to succeed, it is necessary to bring more donors to the table so a second foundation was needed to expand the scope to regional funding for news.
- Because the newspaper is now a nonprofit, this structure significantly reduces the pressure for a profitable return. However positive cash flow remains a necessity for the newspaper because the endowment cannot support general operating expenses or cover deficits.
- Ultimately the conversion requires the leadership and vision of the Huntsman family as owners willing to convert an owned asset into a community asset.

MODEL 2: NON-PROFIT OWNS TAXABLE FOR-PROFIT

TAMPA BAY TIMES

One way around some of the restrictions that local news organizations might face in exploring the shift to a nonprofit organization is to keep the news organization as a taxable for-profit, but move its ownership to a non-profit organization. This structure is mainly meant to ensure the continued existence of the newspaper as an independent entity focused on high-quality journalism and impact in the community. This model has a history as far back as the mid-1970s with the *Tampa Bay Times*. It also had the specific benefit in the past of having the profits of the newspapers fund the charitable activities of the nonprofit organization (in this case, the Poynter Institute of Media Studies).

For most of the 20th century, Nelson Poynter and his father owned the *St. Petersburg Times* (later renamed the Tampa Bay Times). Poynter wanted to create an institution to meaningfully advance the role of journalism in keeping our democracy healthy. In an act of generosity and forward-thinking, he founded the nonprofit Modern Media Institute (MMI) in 1975 — and when Poynter died three years later, he willed the majority of stock in the for-profit St. Petersburg Times to the nonprofit MMI (it was renamed the Poynter Institute after his death). Poynter's bequest of stock to the nonprofit was in part to defend against the inheritance tax; he couldn't have forseen the steep rise and sudden fall of newspaper publishing fortunes.

More than 40 years later, the Poynter Institute is a well-known journalism school and research organization — and the owner of a taxable for-profit corporation, The Times Publishing Company. The company publishes a number of magazines and newspapers, although its flagship publication is the Tampa Bay Times.

Unlike the change underway at the Salt Lake Tribune, the Tampa Bay Times remains a for-profit corporation, although owned by a charity. Consequently, it is not subject to the various restrictions and limitations imposed upon newspapers that are tax-exempt organizations, perhaps most importantly the tax code's prohibition on political activity.

Although for many years the profitability of the Tampa Bay Times helped to sustain and grow the Poynter Institute's educational and research activities, over the last decade the publishing company (like its peers) has faced daunting economic challenges. The Poynter Institute was originally established to build an institution with global reach, rooted in educating and improving the skills journalists bring to their reporting and their communities. After decades in the space, Poynter has many national and globally recognized programs, most of which neither directly serve the Tampa Bay Times nor the local community. Redirecting the Poynter Institute's revenue to support the daily operations of the newspaper not only would raise legal and tax questions, but also would have a significant impact on existing Poynter programs.

KEY TAKEAWAYS

- This structure offers the news organization the opportunity to operate outside the constraints of a tax-exempt organization, most notably more flexibility in revenue-generating activities (specifically paywalls and metered content) and ability for its editorial board to endorse political candidates.
- A change in ownership does not eliminate the need for revenue, but does reduce some pressure for profitability.
- Many nonprofit tax-deductible organizations own taxable for-profit corporations. In most cases, the for-profit corporations generate revenue that funds the nonprofit's tax-exempt activities.
- With many legacy newspapers considered distressed assets, the fiduciary responsibility of the board and management might require an assessment of the financial wisdom of holding such a liability. Moreover, IRS rules do not allow nonprofit ownership to exist for the sole purpose of helping subsidize a money-losing, for-profit operation. This constraint explains in part the broader mission of the Utah Journalism Foundation in the above example.

- More than 40 years ago, Congress developed "excess business holdings rules" in order to prevent non-profit ownership of for-profit businesses from becoming a tax shelter. As a result, private foundations are limited in the percentage of their ownership stake in a business enterprise. However, an enterprise that performs an activity related to the exempt purpose of the organization — that is, a functionally-related business — wouldn't be considered a business enterprise for purposes of these rules. Instead, it could be a "program-related investment." Under the recently passed "Newman's Own Exception," a private foundation can now own 100% of a for-profit business under certain conditions.

- Other examples of a nonprofit organization owning a for-profit news company include the *Vineyard Gazette* in Massachusetts (taxable for-profit owned by an endowed trust); *The Day* in New London, Connecticut (also a taxable for-profit owned by an endowed trust); and the *Fairbanks News-Miner* in Alaska (taxable for-profit owned by a foundation).

MODEL 3: HYBRID MODEL

THE PHILADELPHIA INQUIRER

Existing corporate vehicles and decades-old tax rules make converting a for-profit news corporation into a nonprofit organization challenging. The legal structures and overlapping boards of directors can seem complicated, but exist in order to give an organization maximum flexibility in both its operations and its revenue, as well as deal with tax implications from any conversion or sale. Simply describing the structure of the Lenfest Institute and The Philadelphia Inquirer, LLC (which owns the *Philadelphia Inquirer* in addition to other publications) can be bewildering.

Comparing the Lenfest Institute to our prior example can be illuminating. Whereas the Poynter Institute operates as an independent nonprofit that just happens to own a newspaper, Gerry Lenfest was looking to build much more of a hybrid: a non-profit that owned a newspaper in a way that combined the mission of the newspaper and the non-profit. In the ideal execution of this model, the non-profit could use its resources to research and build innovative approaches to reporting and revenue generation which could then get implemented and tested in the real world through the Philadelphia Inquirer and other owned properties.

As with most of our examples, the story of the Lenfest Institute starts with a single owner, Gerry Lenfest. Lenfest consolidated ownership of the Philadelphia Inquirer, the *Philadelphia Daily News* and Philly.com into a single for-profit corporation, the Philadelphia Media Network (later renamed The Philadelphia Inquirer, LLC). Once these were in a single for-profit C-corp, the entity converted into a "public benefit corporation" in Delaware. Public-benefit corporations are a specific type of corporation that allows for public benefit to be a charter purpose in addition to the traditional corporate goal of maximizing profit for shareholders.

Lenfest was certain he wanted to move the ownership of the taxable for-profit public benefit corporation into some kind of nonprofit ownership or trust in order to execute on the vision previously described. Rather than start a new nonprofit and apply to the IRS for tax-exempt status, Lenfest turned to the Philadelphia Foundation.

Established in 1918, the Philadelphia Foundation is a community foundation serving the Philadelphia metro area. Like many community foundations, the Philadelphia Foundation pools philanthropic funds to support important charitable and educational programs in the community. Here is where it starts to get complicated.

Inside of the Philadelphia Foundation's "Special Assets Fund" is the Lenfest Institute for Journalism, which Lenfest launched with a $20 million endowment gift. Lenfest also gave 99.9% of the stock in the taxable for-profit public benefit corporation to the Institute, but with a twist: all of the stock was non-voting stock. This means the Institute isn't charged with appointing directors of the for-profit newspaper and running the actual business.

Lenfest then created a wholly separate nonprofit, the Philadelphia Media Network Charitable Trust. He then gifted one share of voting stock in the Philadelphia Media Network — the taxable for-profit public benefit corporation — to newly-formed charitable trust. The only asset of the charitable trust is the one share of voting stock, which allows the trustees to, in essence, control the Philadelphia Inquirer.

Lenfest wanted business people running the news company, and the Institute to focus on its activities, provided those activities were integrated with the newspaper. In this structure, the business decisions about the news company are the responsibility of the trustees of the charitable trust (which owns the voting stock) and not the board of the Lenfest Institute (which owns the non-voting stock). The trustees are the same as the directors of the taxable for-profit public benefit corporation creating, in effect, a self-perpetuating board of directors for the newspaper.

In the end, there are two entities: one controls the business with one share of voting stock, and the other is an endowed institute inside of the Philadelphia Foundation whose purpose is to encourage innovation in both business model sustainability and journalism. Like the Utah Journalism Foundation, the Lenfest Institute benefits journalism broadly, but has a focus on Philadelphia.

The initial $20 million endowment has now more than tripled in size — and continues to grow — thanks to the support of over 80 local donors who were compelled by the mission. Donors can choose to restrict their gifts for use in the transformation of the Philadelphia Inquirer, or for the broader mission of the Institute, which is an advantage of the structure as conceived.

Although it may seem needlessly complicated to maintain two different entities, there are several distinctive benefits. First, the Lenfest Institute can work closely with the for-profit company — a different relationship than the Poynter-Tampa Bay Times arrangement, where Poynter's nonprofit activities do not necessarily touch the news corporation. Second, the existence of two separate entities serves as a forcing function to compel the for-profit news company to build sustainable revenue streams. By its very design, the Lenfest Institute is prohibited from supporting the operating expenses of the news company: "The institute will not transfer any funds as contributions to the capital of PMN for general operating expenses or to cover deficits."

Unlike the relationship between Poynter and the Tampa Bay Times, the Lenfest Institute has provided many grants to the Inquirer. The Institute has provided substantial grants to support the sharp expansion of investigative news, increased diversity in the newsroom, and the acquisition of new newsroom technology. Each of these initiatives are essential to the transformation of local news and are bundled with ways of distributing the learnings across the industry.

KEY TAKEAWAYS

- Because a nonprofit owns the news company, the pressure for profitability is diminished. But because the endowment cannot support general operating expenses or cover deficits, the news company is obligated to find long-term sustainable revenue streams.
- The endowment of the Lenfest Institute gives The Philadelphia Inquirer, LLC the breathing room to try high-risk innovations that might generate revenue without assuming the same degree of financial risk on the business side. Meanwhile, the Lenfest Institute's independence from the Inquirer allows it to take its knowledge about building sustainable revenue streams and scale it to news organizations around the country.
- It is worth noting that the philanthropic scale of the Lenfest Institute is still small as compared to the operational cash flow of the for-profit The Philadelphia Inquirer, LLC.
- Like the Huntsman family, it was the Lenfest family's generosity and belief that the news company was a community asset that propelled the enterprise forward.

MODEL 4: FOR-PROFIT PARTNERED WITH COMMUNITY FOUNDATION

THE SEATTLE TIMES

Given the complexity of transitioning ownership interests, as well as the multiple unknowns around potential philanthropic commitments across different communities and contexts, a less dramatic option involves partnering with an existing community foundation to support activities with community benefits, like investigative journalism or specific beat local reporting. Broadly defined, a community foundation is able to receive tax-deductible contributions and distribute funds to support worthwhile projects in its community. The biggest downside to this kind of arrangement is that funds will be explicitly channeled into relatively narrow and inflexible with reporting projects. Others opting for this arrangement might face challenges with accountability and transparency around financial flows; ultimately, and despite these barriers, a partnership with an existing community foundation is a low-overhead, low-risk way to begin to build a stream of philanthropic funding for news. For this kind of relationship to succeed, both parties must clearly understand and commit to the editorial independence of the newsroom — as the collaboration between the Seattle Foundation and the Seattle Times demonstrates.

The Seattle Times is one of the few remaining major city dailies in the United States independently operated and owned by a local family. Founded in Seattle, Washington, in 1896, the company is now in its fourth and fifth generations of ownership by the Blethen family. Since 2013, the Times has worked with the Seattle Foundation to direct philanthropic contributions to specific reporting projects. The Seattle Foundation has not directly supported the news company, but provides a vehicle for the news organization to raise tax-deductible contributions. This arrangement proves particularly beneficial as the foundation provides this service pro bono. (Some community foundations charge a percentage overhead fee to cover the costs of acting as a fiscal agent in this way.)

For the first several years of the partnership, the relationship was tightly structured around specific reporting projects. The first project was launched in 2013: the Education Lab. Supported by the Bill & Melinda Gates Foundation, the John S. and James L. Knight Foundation, the Annie E. Casey Foundation and City University of Seattle, the Lab produces reporting examining promising approaches to some of the most persistent challenges in public education. The Education Lab was done in partnership with the Solutions Journalism Network, a national nonprofit that acted as the fiscal sponsor. Following the success of the Education Lab, the Times worked with the Seattle Foundation to launch “Project Homeless,” a reporting initiative that explores and explains the region’s complex, troubling problem of homelessness. The foundation acted as a fiscal sponsorship for the Lab pro-bono, without seeking for any overhead fees.

In this model, the Times generates the idea for the area of coverage, prospects for potential donors, and then directs those donors to the Seattle Foundation. The foundation then disperses the funds to the for-profit corporation, complete with a formal contract between the news company and the foundation. The contract includes financial reporting and accountability to ensure the funds are allocated directly to the previously agreed upon reporting projects.

In addition to major foundations listed as donors, a number of corporations in the Seattle community are also listed as sponsors: Alaska Airlines, Kemper Development Co., and PEMCO Mutual Insurance Company are among the funders of the Traffic Lab project. However, the corporate donors paid the for-profit corporation directly for a sponsorship opportunity. This means the funding from corporations as sponsors was not tax-deductible but more akin to an advertising buy with the news organization, whereas philanthropic gifts were routed through the fiscal sponsor (the Seattle Foundation) to ensure the gifts were tax deductible.

The newest iteration of the partnership between the news company and the foundation seeks large donors — but also pursues small charitable gifts from individuals. As a result, the Seattle Times Investigative Journalism Fund is a more open-ended effort than the news organization’s previous reporting projects. Despite initial concerns that directing small-dollar contributions to a charitable fund might adversely affect paid subscriptions, the “crowdfunding” of the Investigative Journalism Fund has been a success. Paying subscribers are also willing to provide additional tax-deductible contributions to support the vision of the Investigative Journalism Fund: to build the largest local investigative reporting team in the nation. It is worth noting that despite acting as the fiscal sponsor pro-bono for Project Homeless, the Seattle Foundation is charging an administrative fee as a percent of funds raised.

Critical to the success of the partnership is the explicit editorial policy of the Seattle Times with regard to the philanthropic funds:

The Seattle Times maintains editorial control over content produced with fund resources. Funders do not have any input into the reporting of stories or into any of the specific content that will be produced with fund resources. Funders are not aware of specific stories The Seattle Times newsroom is working on and do not review them before publication. Funders do not have special access to reporters, and readers know who our funders are.

KEY TAKEAWAYS

- The news organization takes primary responsibility for raising the money, in part to avoid the appearance of taking money away from other projects funded by the community foundation.

- The community foundation is an independent entity with its own board of directors, as well as with specific financial accountability processes to ensure the funds are spent appropriately. This constrains how the news organization can spend the money.

- Fundraising efforts — both from major funders as well as from small-dollar donors — require a different infrastructure than traditional for-profit revenue streams. Grant management, donor cultivation and small dollar donor retention are unique skill sets within a specialized industry.

- Most fiscal sponsors charge an overhead fee.

- News organizations must continue to cover any potential funders in their regular news coverage, in part to combat the perception that the newsroom might give funders some kind of privileged coverage. This always has the opportunity to introduce some friction into the relationship, whether funders are concerned their projects are failing to receive enough coverage, or, conversely, the projects are placing too much attention on issues that might adversely affect the funders.

- Maintaining public trust in the news media requires clear ethical guidelines and process. An especially important part of navigating the bright lines separating donor support and news coverage is to structure philanthropic support around broad beat areas. For example, the Nina Mason Pulliam Foundation in Arizona made a substantial multi-year grant to the Arizona Republic to support in-depth reporting teams focusing on local and national environmental issues impacting Arizona. It is highly recommended that you consult the American Press Institute's 2017 publication, "Guidance on philanthropic funding of media and news" for a substantial discussion of all the related issues involved with this kind of relationship.

- This model is rapidly gaining traction; the Fresno Bee (owned by McClatchey) recently announced a nearly identical model, the "Education Lab", funded primarily by local community foundations. Both Gannett and the New York Times have recently created senior executive positions devoted to philanthropic partnerships and support.

TAX-EXEMPT STATUS

The Internal Revenue Service does not have a tax-exempt category for "journalism" or "news." Most existing nonprofit news organizations qualify for tax-exempt status as "educational" organizations. (The other tax-exempt categories are charitable, religious, scientific, literary, testing for public safety, fostering national or international amateur sports competition and preventing cruelty to children or animals.) While the below guidance is considered best practice, please ensure your news organization or business engages appropriate resources and takes appropriate steps to evaluate how these categories apply to your specific status, context, content, legal jurisdiction and corporate form.

Let's take a look at the four main criteria the IRS uses to rule whether a publication is educational in nature:

1. **THE CONTENT IS "EDUCATIONAL."** Most news gathering can qualify as educational, rendering this requirement straightforward. Public service journalism and investigative journalism easily qualifies, although for the most part sports and entertainment coverage do not. However, as long as the primary purpose of the organization remains "educational," providing some "non-educational" material does not necessarily disqualify a news organization from nonprofit status.

   A significant consideration for some owners will be around political endorsements. Precedent and IRS guidance indicates that nonprofit organizations cannot engage in political activity; this means that unlike their for-profit cousins, nonprofit news publications cannot endorse political candidates. However, nonprofit news organizations can discuss and analyze a candidate's positions, and even have a point of view as long as it is based in facts. That said, local newspapers often play a central role in their communities through endorsements of local candidates; for news organizations that carry this civic responsibility, the loss of this function might dissuade from transitioning to a philanthropic model.
2. **THE MATERIAL WAS PREPARED BY FOLLOWING PROCEDURES GENERALLY ACCEPTED AS "EDUCATIONAL."** The process by which the material was researched, sourced, or generated by the news organization is also a significant condition of approval within the existing tax code. The IRS states the procedures around content creation must "materially aid a listener or reader in a learning process." A description of sports competitions with commercial appeal probably would not qualify as an educational procedure for material preparation; the process by which a high-quality, fact-based investigative story is reported out would qualify as educational.
3. **THE PUBLICATION'S DISTRIBUTION IS "NECESSARY OR USEFUL" TO ACCOMPLISH THE ORGANIZATION'S EDUCATIONAL PURPOSES.** IRS guidance on these issues is frequently decades old and may not make much sense in the digital age. This "distribution" requirement was originally established in an era in which newsstand sales represented significant commercial activity. Today, this criteria can be easily met by news organizations that distribute a significant portion of their news content for free online.

4. **THE MANNER IN WHICH THE MATERIALS ARE DISTRIBUTED IS DISTINGUISHABLE FROM ORDINARY COMMERCIAL PRACTICES.** This is often the most challenging requirement for newsrooms and is frequently referred to as the "tripwire" for acquiring tax-exempt status. News organizations must be able to demonstrate that they're different from for-profit companies: What do you do differently? One critical difference may be when the bulk of an organization's content is distributed freely online (and not behind a meter or paywall). Another critical difference is likely to be the news organization's reliance on charitable contributions for ongoing operations, as opposed to more traditional sources of revenue (advertising, circulation).

It's also important to note that a tax-exempt organization cannot engage to any extent in political campaign activities and no substantial part of their activities may constitute lobbying. For non-profit news organizations, this means that the tradition of endorsing political candidates is strictly prohibited and articles pushing for legislation are subject to restrictions. However, nonprofit news organizations can discuss and analyze candidates' positions and prospective legislation.

Every nonprofit in the United States falls into one of two categories: You're either a public charity or a private foundation. The IRS determines which bucket you fall into based in part on the source of your funding. This is commonly referred to as the "public support test" and applies primarily to news organizations when too much of your funding comes from a single source. Some organizations, such as a hospital and a school, qualify as a public charity by virtue of what they do, without regard to public support. News organizations qualifying as a public charity typically must rely upon the public support test. Both categories carry specific requirements; it is best to consult with legal counsel to evaluate the potential impact of each category for your organization and business model.

QUICK QUESTIONS

If we are a nonprofit, can we still endorse political candidates? No. Tax-exempt organizations cannot engage in political activity, including endorsing political candidates. This is the single biggest content-related change likely to face most newspapers. However, nonprofit news organizations can discuss and analyze candidates' positions.

What if a lot of our revenue comes from something other than the news? Many newspapers own adjacent businesses, from real estate to online retailers. This kind of unrelated business income makes blanket tax-exempt status difficult, although it is possible for nonprofits to own taxable for-profits.

Do we need to give up sports and entertainment coverage? No. As long as your publication is not primarily about sports and entertainment, you can continue to provide this coverage alongside local news and investigative journalism.

What if we suddenly make a lot of money? Simply making money does not disqualify you from tax-exempt status; many hospitals make money. However, a range of considerations about your sources of revenue and their relative size to each other will matter in determining your eligibility for non-profit status.

Can we still sell advertising and subscriptions?
Yes. Subscriptions will most likely qualify as tax-exempt contributions. As long as you have multiple sources of revenue, paid advertising is (for the most part) allowed.

CONCLUSION

Despite a lack of clear guidelines from the IRS, there remain a range of promising vehicles for local newspapers to accept tax-exempt contributions. Starting on the simple end, you can retain your existing structure but accept a grant from a foundation to broadly support an area of coverage important to the community (as with the grant Los Angeles Times received from the Ford Foundation). Adopting a slightly more complex approach, but still within your existing structure, you can work with a local community foundation to build a program to support specific areas of coverage (the Seattle Times approach detailed above). And then there are the bigger, more complex moves: changing the ownership structure of the newspaper to turn it into a community asset. There is more than one way to do this — the Lenfest, Poynter, and Salt Lake Tribune examples each present different incentives and constraints.

The challenges to the business model of news will persist; philanthropy will not be a silver bullet. But tax-exempt contributions can provide some additional breathing room as the business model continues to evolve. Across all of these options, we suggest you seek expert tax and legal counsel, and have listed resources below that might help you understand and evaluate next steps for your particular organization and its circumstances.

New nonprofit models are emerging that offer novel approaches to engaging communities. Local non-profit news has a long history in public broadcasting, especially public radio — for some news organizations, there may be worthwhile potential collaborations to pursue in their communities, and in some municipalities this is already underway. The past decade has also seen a new breed of nonprofit start-up news organizations; the *Texas Tribune* is the most commonly cited example of this new breed of start-up news non-profit. But legacy local news organizations already have all of the crucial infrastructure to serve communities: managers, editors, newsrooms, budgets, advertisers, subscribers, and, most importantly in the digital age, audience.

All of the options outlined in this paper require a level of engagement with community leaders. In the past, editors and publishers have often held these relationships at arm's length. The value of some distance from community leaders is cast in sharp relief during the movie "Spotlight," about the *Boston Globe*'s investigative journalism around the Catholic Church's shielding of pedophiles. In the movie, the leader of the Catholic Church in Boston, Cardinal Bernard Law, pressures then-Globe editor Marty Baron. The cardinal says, "I find that the city flourishes when its great institutions work together." Baron replies, "Personally, I'm of the opinion that for a paper to best perform its function, it really needs to stand alone."

The distance a newspaper can keep from its community gives it the ability to hold power accountable and avoid being compromised in reporting difficult stories. Many of the challenges newspapers have faced in recent years spring in part from too great a distance from the community, with some newsrooms becoming disconnected from the needs and demands of their local audiences. Tax and legal issues aside, following the paths outlined in this paper require a fundamental change in approach — from being above the community, to being part of it. Navigating the challenges of influence and accountability must be a critical part of the solution as newspapers grow closer to the leaders of their communities.

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APPENDIX: METHODOLOGY AND DATA

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LEGAL SOURCES

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- Marcus Owens, Partner, Loeb & Loeb
  https://www.loeb.com/en/people/o/owens-marcus-sherman
- Celia Roady, Partner, Morgan Lewis
  https://www.morganlewis.com/bios/croady

ADDITIONAL READING

For further reading on business models for nonprofit journalism, these pieces are a good starting point:

Newspapers Look to Philanthropy to Support Local Journalism
Planned Giving Design Center
July 23, 2019
https://www.pgdc.com/pgdc/newspapers-look-philanthropy-support-local-journalism

Here's The Salt Lake Tribune's plan for securing 501(c)(3) status
Nieman Lab
June 3, 2019
https://www.niemanlab.org/2019/06/heres-the-salt-lake-tribunes-plan-for-securing-501c3-status/

Funding Journalism, Finding Innovation: Success Stories and Ideas for Creative, Sustainable Partnerships
Co-published by the Shorenstein Center at the Harvard Kennedy School and Media Impact Funders
June 20, 2018
https://shorensteincenter.org/funding-journalism-innovation-case-studies/

Funding the News: Foundations and Nonprofit Media
Shorenstein Center at Harvard Kennedy School
June 18, 2018
https://shorensteincenter.org/funding-the-news-foundations-and-nonprofit-media/

Could It Be Sunny in Philadelphia?
Knight Foundation
June 15, 2016
https://knightfoundation.org/reports/could-it-be-sunny-philadelphia

Charting new ground: The ethical terrain of nonprofit journalism
American Press Institute
April 20, 2016
https://www.americanpressinstitute.org/publications/reports/nonprofit-news/

The IRS and Nonprofit Media: A Step Forward Toward Creating A More Informed Public
Council on Foundations
2015
https://www.cof.org/sites/default/files/documents/files/2015-nonprofit-media-report.pdf

The IRS and Nonprofit Media: Toward Creating a More Informed Public.
Council on Foundations
March 4, 2013

https://www.cof.org/sites/default/files/documents/files/Nonprofit-Media-Full-Report-03042013.pdf

Guide to the Internal Revenue Service Decision-Making Process under 501(c)(3) for Journalism and Publishing Non-Profit Organizations
Berkman-Klein Center for Internet and Society at Harvard University
April 2, 2012
https://cyber.harvard.edu/publications/2012/guide_to_IRS_decision_making_process

The Quest to Save Journalism: A Legal Analysis of New Models for Newspapers from Nonprofit Tax-Exempt Organizations to L3Cs

Utah Law Review
September 12, 2010
https://papers.ssrn.com/sol3/papers.cfm?abstract_id=2658470