

SUBJECT: RELATIONSHIP OF LOCAL OFFICIALS WITH CABLE TV COMPANY

SUMMARY:

Public officials or employees must weigh the consequences on a case by case basis of accepting meals from a regulated cable television company. The Commission advises against "courtesy" cable connections. Public officeholders must disclose anything of value received from a lobbyist principal. The costs associated with a function may be based on the number of confirmed attendees when actual costs cannot be readily determined.

QUESTION:

The Regional Director of Cablevision Industries requests guidance concerning the Ethics Reform Act. The company has customarily met and dined with local officials on an individual and collective basis to discuss business matters. The Director understands that such meetings are permitted provided that anything of value in excess of \$25 per day or \$200 per year must be disclosed by the official on the Statement of Economic Interests. He also requests clarification concerning "courtesy" cable connections for public officials. He also questions whether, as a lobbyist for the company, he is subject to any restrictions regarding his involvement with local officials. He also questions the means of determining the value per person of an event. The Secretary of State's Office has advised that such figure is determined by dividing the total cost by the number of persons confirmed.

DISCUSSION:

This opinion is rendered in response to a letter dated January 28, 1992 requesting an opinion from the State Ethics Commission. The Commission's jurisdiction is limited to the applicability of the Ethics, Government Accountability, and Campaign Reform Act of 1991 (Act No. 248 of 1991; Section 8-13-100 et. seq., as amended, 1976 Code of Laws). This opinion does not supersede any other statutory or regulatory restrictions or procedures which may apply to this situation.

As to the first question, in Advisory Opinion AO92-071, the State Ethics Commission advised that whether acceptance of travel, meals, and lodging is prohibited by Section 8-13-705 should be determined on a case by case advisory basis, depending upon the donee, the donor, the type and amount involved, and whether there are any matters pertaining to the donor before the agency with which the officeholder or employee is associated.

Section 8-13-705 provides in part as follows:

- (A) A person may not, directly or indirectly, give, offer, or promise anything of value to a public official, public member, or public employee with the intent to:
- (1) influence the discharge of a public official's, public member's, or

public employee's official responsibilities;

(2) influence a public official, public member, or public employee to commit, aid in committing, collude in, or allow fraud on a governmental entity; or

(3) induce a public official, public member, or public employee to perform or fail to perform an act in violation of the public official's, public member's, or public employee's official responsibilities.

(B) A public official, public member, or public employee may not, directly or indirectly, knowingly ask, demand, exact, solicit, seek, accept, assign, receive, or agree to receive anything of value for himself or for another person in return for being:

(1) influenced in the discharge of his official responsibilities;

(2) influenced to commit, aid in committing, collude in, allow fraud, or make an opportunity for the commission of fraud on a governmental entity; or

(3) induced to perform or fail to perform an act in violation of his official responsibilities.

As to the second question, the State Ethics Commission advises against the provision of "courtesy" cable connections to public officials. Such connections carry a value based upon a monthly assessment, not a per use assessment. Such connections are made to public officials who have regulatory authority over that company, and no other cable company can provide such service due to the monopoly enjoyed by such cable tv service. The Commission advises that the provision of "courtesy" cable connections on its face to one who regulates a monopoly industry would appear to be granted to influence.

As to the third question, the lobbyist provisions of Chapter 17 apply to relationships with state officials. However, local public officials, members, or employees who receive anything of value from a lobbyist's principal are required to disclose such thing of value on their Statement of Economic Interests.

With regard to the fourth question, the Secretary of State's Office has advised that the value to be established for an event is calculated by dividing the total cost by the number of persons confirmed. Such figure can be utilized by such public officials, members, or employees when a large group of such officeholders are invited to a reception or function. However, the actual cost per person shall be utilized in a meal setting or function when such actual costs can be readily determined (i.e., a restaurant meal, function attended by just members of a city or county council).