

1982 WL 189312 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

June 2, 1982

\*1 Mr. Henry J. Cauthen  
President and General Manager  
S.C. Educational Television  
Drawer L  
Columbia, South Carolina 29250

Dear Mr. Cauthen:

You have asked the opinion of this Office on whether the South Carolina Educational Television Commission may enter into a partnership or some other form of joint business association with several commercial television stations for the purpose of constructing and/or operating a television and radio broadcast tower. If such a venture is not permitted, you ask what role the Commission may have in the operation of the tower.

In an opinion to the Commission dated January 28, 1970, [copy attached] this Office indicated that such a joint venture was authorized by the statutes pursuant to which the Commission operates. The opinion, however, appears not to have considered [Article X, Section 11 of the Constitution](#) [formerly [Article X, Section 6](#)]. This section provides, in part, that:

Neither the State nor any of its political subdivisions shall become a joint owner of or stockholder in any company, association or corporation.

The language of [Section 11 of Article X](#), which should apply to the Commission as an instrumentality of the State, would prohibit the Commission from engaging in a venture whereby it becomes associated with private companies in the joint ownership of any property or assets. Therefore, it is the opinion of this Office that the Commission could not enter into a partnership or some other joint business association with commercial television stations for the purpose of constructing and/or operating a broadcast tower. Without being advised of what other specific roles the Commission might assume in the operation of the tower, this Office is not able to provide opinions on the propriety of such roles. However, the Commission would be authorized by [Section 59-7-40, Code of Laws, 1976](#), to enter into a lease to utilize the tower in transmitting its radio and television broadcasts.

Sincerely,

James M. Holly  
Assistant Attorney General

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