

**AUTHORIZATION FOR EXCEPTION
TO KRS 11A.045(1)**

EXCEPTION NO. 2002-01

May 8, 2002

RE: May agency accept Internet service for one day from company it regulates in its unemployment insurance program?

DECISION: Yes, provided the company has no regulatory matters concerning which it is seeking to influence the agency.

This authorization is in response to your March 22, 2002, request for an exception to KRS 11A.045(1) from the Executive Branch Ethics Commission (the "Commission"). This matter was reviewed at the May 8, 2002, meeting of the Commission and the following authorization is issued.

You state the relevant facts as follows. The Cabinet for Workforce Development, Office of the Secretary, is partnering with the Agricultural Development Board and the University of Kentucky Cooperative Extension service to conduct a Farm Family Education Expo, "Skills for a Changing Future." The Expo will be conducted at two sites: Mt. Olivet (Blue Licks State Park) and Edmonton (Metcalfe County). Site selection for the Expo was based on the percentage of tobacco farmers that were affected by cutbacks and need assistance. The Expo will be geared toward three groups:

1. Those farmers who have lost or are losing their farms and need job skill assessment, job matching and immediate job placement;
2. Those farmers who need full- or part-time employment for benefits and supplemental income to keep their farms and lifestyles; and
3. Those farmers who need to upgrade their skills to continue farming.

You have planned to have available at each site two mobile computer labs, one for computer skills training (conducted by the Department of Adult Education) and one for job skills assessment and placement (conducted by the Department of

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Employment Services). In order to conduct the Expo, you need Internet access. The Edmonton site does not have access to the Internet, and you believe it would be costly to install it for a one-day event. The telephone company in that area, South Central Rural Telephone has offered to donate Internet services for the Expo. South Central Rural Telephone is the only company in the area that offers Internet services. They view the donation as being good for the community. You ask if the Workforce Development Cabinet, and specifically the Department for Employment Services, may accept the one-day service provided by the telephone company in light of the Department's regulatory authority over all employers in its unemployment insurance program.

In considering your request, the Commission reviewed KRS 11A.045(1) that provides:

(1) No public servant, his spouse, or dependent child knowingly shall accept any gifts or gratuities, including travel expenses, meals, alcoholic beverages, and honoraria, totaling a value greater than twenty-five dollars (\$25) in a single calendar year from any person or business that does business with, is regulated by, is seeking grants from, is involved in litigation against, or is lobbying or attempting to influence the actions of the agency in which the public servant is employed or which he supervises, or from any group or association which has as its primary purpose the representation of those persons or businesses. Nothing contained in this subsection shall prohibit the commission from authorizing exceptions to this subsection where such exemption would not create an appearance of impropriety.

Based on the provisions above, employees are prohibited from accepting gifts and gratuities from persons or businesses that do business with, or are regulated by, the state agency for the employee works. Additionally, in previously issued advisory opinions, the Commission stated that an agency's acceptance of gratuities from an entity seeking to do business with the agency would create a conflict of interest for the agency and would tend to damage public confidence in the integrity of government. Accordingly, the Department of Employment Services would be precluded from accepting the Internet access from the telephone company.

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However, the Commission believes that although the Department for Employment Services regulates South Central Rural Telephone within its unemployment insurance program, the Department may accept the Internet service for a one-day event that will benefit the people of the Commonwealth, provided the telephone company is not seeking to influence the Department concerning any regulatory matters.

Thus, the Commission authorizes an exception to allow the Department of Employment Services to accept Internet service from South Central Rural Telephone for one day. The Commission does not believe that such an exemption will create an appearance of impropriety

Sincerely,

EXECUTIVE BRANCH ETHICS COMMISSION

BY CHAIR: Cynthia C. Stone, Esq.

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