

OPINION NO. 77-059**Syllabus:**

The authority of the Ohio Educational Television Network Commission with respect to educational radio is limited to the powers granted in R.C. 3353.04(G).

To: Dave L. Fornshell, Exec. Director, Ohio Educational Television Network Commission, Columbus, Ohio

By: William J. Brown, Attorney General, October 11, 1977

I have before me your request for my opinion regarding the powers granted to the Ohio Educational Television Network Commission. Your question is as follows:

"Does the Ohio Educational Television Network Commission have the same powers and authority to act in connection with educational radio as is granted to it under Chapter 3353, Revised Code of Ohio, in respect to educational television?"

In the event Ohio Educational Television Network Commission has the same power and authority to act in connection with educational radio as is granted to it in respect to educational television, does this power and authority extend to educational radio stations owned by non-profit church related activities?"

An agency of the state created by statute possesses only the powers and duties expressly given to it by statute and those necessarily implied therefrom, 1973 Op. Att'y Gen. No.

73-088. R.C. 3353.04, which sets forth the powers of the Ohio Educational Television Network Commission, provides as follows:

* * *

"(A) Own and operate transmission facilities and interconnection facilities, or contract for transmission facilities and interconnection facilities, for an educational television network:

(B) Establish standards for interconnection facilities used in the transmission of educational television by the commission;

(C) Enter into agreement with non-commercial educational television broadcasting stations for the transmission to the broadcasting stations of identical programs for broadcasting either simultaneously or through the use of transcription discs, tapes, or film;

(D) Enter into agreements with noncommercial educational television production centers and broadcasting stations for the production and use of educational television programs to be transmitted by the educational television network;

(E) Execute contracts and other agreements necessary and desirable to carry out the purposes of sections 3353.01 to 3353.04, inclusive, of the Revised Code;

(F) Determine programs to be distributed through the Ohio educational television network;

(G) Act as consultant with educational television and educational radio stations toward coordination within the state of the distribution of federal funds that may become available for the development of educational broadcasting.

(H) Make payments to non-commercial Ohio educational television broadcasting stations to sustain the operation of such stations, and may consign equipment to them in exchange for services rendered."
(Emphasis added)

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It should be noted that the above provision grants the commission authority to perform various acts in regard to educational television. In division (G), the commission is given express authority to act as consultant with educational

radio stations in the coordination of the distribution of federal funds. No other authority is expressly or impliedly granted to the commission to exercise the powers granted to it relating to educational television over educational radio. To the contrary, it is significant that the powers of the commission with respect to educational radio were expressly considered and purposely limited by the General Assembly to those set forth in R.C. 3353.04(G). I must conclude, therefore, that the commission does not possess such powers and authority over educational radio.

Because the answer to your first question is in the negative, it is unnecessary to consider your second question.

Therefore, it is my opinion, and you are so advised that:

The authority of the Ohio Educational
Television Network Commission with
respect to educational radio is limited
to the powers granted in R.C. 3353.04(G).