

DECISION



**THE COMPTROLLER GENERAL
OF THE UNITED STATES
WASHINGTON, D. C. 20548**

FILE: B-210620

DATE: June 28, 1984

MATTER OF: Federal Communications Commission-
acceptance of rent-free space and
services at expositions and trade shows

DIGEST:

1. Acceptance by the Federal Communications Commission of offers of free exhibit space and appurtenant services at industry trade shows, expositions, conventions, and other similar events does not involve an "augmentation" of the Commission's appropriations, because no donation of funds has been made or accepted. The promoters of such events have the right to set the fees that are charged to exhibitors and the amount of the charge, if any, is up to the promoter.
2. Offers to the Federal Communications Commission of free exhibit space and appurtenant services at industry trade shows, exhibitions, conventions, and other similar events do not constitute "gifts" which it lacks authority to accept. The offers are not "gratuitous conveyances or transfers of ownership in property [made] without consideration." 25 Comp. Gen. 637 (1946). The Commission's participation in such events is a drawing card which results in increased admissions revenues for the promoters, and thus there is adequate consideration for the arrangement.
3. While dissemination of information to the public about radio technology is part of the Federal Communications Commission's mission, there is no statutory requirement that it be accomplished through participation in expositions, trade shows, etc. The Commission is free to decide to participate only if its resources will not be taxed through provision of free space and related services. See B-204326, July 26, 1982.

The General Counsel of the Federal Communications Commission has requested our decision on whether the Commission may legally accept offers of rent-free exhibition space (and other free services) in order to facilitate the Commission's

participation in industry trade shows, expositions, conventions, and other similar events throughout the United States. For the reasons given below, we find that acceptance of such offers is permissible.

Periodically, the Federal Communications Commission is invited to participate in expositions, conventions, industry trade shows, and other similar events. The General Counsel mentions "boat shows" as examples of the events to which he refers. Participation by the Commission usually entails displaying and explaining the Commission's radio monitoring equipment and techniques, as well as responding to questions concerning the Commission's rules, licensing functions, enforcement, safety, and other matters relating to the Commission's jurisdiction and activities. In participating in these events, the Commission sets up booths, dispatches knowledgeable staff members, and sometimes places mobile monitoring equipment on or near the convention grounds. The Commission participates in these events in order to inform the public about the efficient and effective use of radio technology.

Floor space at these affairs often commands premium prices. The General Counsel advises us that the Commission generally cannot afford to participate on a paying basis. However, many promoters recognize that the Commission's presence at these shows is an attraction. They actively solicit Commission participation and offer to provide floor or display space, together with necessary electrical power and appurtenances, at no charge to the Commission.

The General Counsel maintains that the Commission's participation in these events is proper and in furtherance of the functions that have been statutorily invested in it. Therefore, he argues, acceptance of these offers of rent-free space and related free services should not be deemed an impermissible augmentation of the Commission's appropriations.

As a threshold question, we do not object to the administrative determination by the Commission that participation in these events is directly relevant to its mission. Generally, appropriated funds are not available for participation by Government agencies in fairs or expositions without specific statutory authority. 2 Comp. Gen. 581- (1923). However, in this case, the Commission is charged by law with the duties to (i) investigate and study all aspects of radio technology (47 U.S.C. § 154(o)), (ii) promote

safety of life and property through the use of radio technology (47 U.S.C. § 151), (iii) publish its reports and decisions in such form and manner as may be best adapted for public information and use (47 U.S.C § 154), and (iv) to generally encourage the larger and more effective use of radio in the public's interest (47 U.S.C § 303(g)).

The immediate question, however, is broader. Accepting the fact that the Commission's public information mission can be carried out, in part, through participation in these shows, may the Commission accomplish its mission by accepting donated space and services rather than by using its own appropriations to pay for them? We think the answer is clearly yes.

The concept of "augmentation" does not appear to be relevant in this case, because no donation of funds has either been made or accepted. Although there is no express statutory prohibition against augmentation of appropriated funds, the theory, propounded by the accounting officers of the Government since the earliest days of our nation, is designed to implement the constitutional prerogative of the Congress to exercise the power of the purse; that is, to restrict executive spending to the amounts appropriated by the Congress. See, for example, 9 Comp. Dec. 174 (1902).

Several implementing statutes further assure that agencies do not accept additional monies from sources other than the Congress itself. For example, 18 U.S.C. § 209 prohibits acceptance of any salary payment or other compensation for a Government employee from any source outside the Government. Funds may not even be transferred between separate Government appropriations without specific statutory authority. 31 U.S.C. § 1532. If contributions or donations from outside sources are made to Government agencies, in the absence of statutory authority to retain them, they must be deposited promptly in the general fund of the Treasury. 31 U.S.C. § 3302. Violations of any of the above statutes constitutes an illegal "augmentation" of the agency's appropriation and the funds must be disgorged and returned to the Treasury so that they can be appropriated as the Congress sees fit.

In the present case, however, no money changed hands, nor was money paid on the Commission's behalf to anyone else. A promoter who rents a designated amount of space in an exhibition hall owes the total rent to the owner of the hall, regardless of the number of individual occupants of the space. The promoter, of course, is free to recoup the

amount expended by charging the various exhibitors for the space and any ancillary services provided to them. The amount of the charge--if any--is up to the promoter.

It might be argued that the offer of free space to the Government constitutes a "gift" which individual agencies are not authorized to accept, in the absence of statutory authority. In 25 Comp. Gen. 637 (1946), we defined "gifts" as "gratuitous conveyances or transfers of ownership in property without any consideration." However, the provision of free space and ancillary services cannot really be characterized as a gift from the promoters made without consideration. The General Counsel states that the Commission's exhibit at one of these events is a drawing card which results in increased admissions revenues for the promoters. For this reason, it is to the advantage of the promoters to solicit the Commission's participation and to waive the usual fees. From the Commission's point of view, acceptance of the free space and services affords it with an additional opportunity to inform the public about radio technology at no increased cost to the agency. This mutually beneficial arrangement is neither an augmentation of appropriations nor an illegal retention of a gift.

We note further that the Commission has discretion to determine how to carry out its duty to inform the public, and is not required to participate in these events. According to the General Counsel, were it not for the offer of free space, the Commission would probably choose not to participate because of the high costs it would incur. See B-204326, July 26, 1982, in which we permitted the Army to accept free services from the American Association of Retired Persons in disseminating crime-prevention information. In that case too, the activity was generally within the agency's mission but it would not have had the resources to allocate to the extensive program which the Association felt was necessary.

For these reasons, we conclude that the Federal Communications Commission may legally accept offers of rent-free space and other free services in order to participate in conventions, trade shows, expositions, and other similar events to provide public information about radio technology and other related matters in accordance with its mission.



Acting Comptroller General
of the United States