

Opinion No. 88-51

August 15, 1988

OPINION OF: HAL STRATTON, Attorney General

BY: Norman Osborne, Assistant Attorney General

TO: G. Trudy Beverley, Liaison/Administrator, New Mexico Athletic Commission, 4125 Carlisle, N.E., Albuquerque, NM 87107

QUESTIONS

Is closed circuit television the same as cable television for the purposes of the New Mexico Athletic Commission Rules and Regulations?

CONCLUSIONS

Yes.

ANALYSIS

Section 60-2A-8 of the New Mexico Athletic Competition Act ("Act"), Sections 60-2A-1 to 60-2A-31 NMSA 1978, creates the New Mexico Athletic Commission ("Commission") and authorizes it to regulate professional athletic contests conducted, held or given within New Mexico. This includes the licensing of promoters, Section 60-2A-10, and events, Section 60-2A-9. A person that charges an admission fee for a closed circuit televised live performance is a promoter within the meaning of statute because he "stages a closed circuit television show," Section 60-2A-2(F), and therefore he must obtain a license from the Commission. Section 60-2A-10(C). He also must pay the privilege tax that the Act imposes on live coverage by closed circuit television or motion picture. Section 60-2A-26(A). Closed circuit television is "a television installation in which the signal is transmitted by wire to a limited number of receivers." Webster's Ninth New Collegiate Dictionary at 250 (1987). The Federal Communications Commission defines cable television as "a set of closed transmission paths and associated signal generation, reception and control equipment that is designed to provide cable service ... to multiple subscribers within the community". 47 C.F.R. 76.5(a). The two definitions are similar: television transmission through closed paths, as opposed to broadcast over the air for receipt by the general public, to a finite number of receivers or subscribers. Cable television is more narrowly defined than closed circuit television in that its purpose must be to "provide cable service." Id. We are therefore of the opinion that cable television is a type of closed circuit television within the meaning of the Act.

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