

[Advisory Opinion 1992-7]
ADVISORY OPINION 92-33

The Ethics Commission has reviewed your memorandum of April 24, 1992, requesting advice. Based on your memorandum, the Ethics Commission understands the background facts as follows:

Part of your job duties involve administering the County's Cable Television Franchise Agreement with Cable TV Montgomery (CTM). In 1987, the County approved the cable television system design submitted by CTM. In approving CTM's system design, the County relied on the advice of an independent engineering consultant. The approved cable system uses home subscriber converters manufactured by General Instrument Corporation (GI).

GI is on the verge of issuing an initial offering of 22,000,000 shares of common stock. Based on your stock broker's advice, you indicated that you wish to purchase "several hundred shares" of GI stock.

Section 19A-11 prohibits a public employee from participating in a matter that affects a business in which the public employee has an economic interest.¹ The question arises, therefore, whether you may invest in GI stock and continue to perform your duties for the cable television office.²

In analyzing this issue, the Commission finds the following factors persuasive:

1. CTM, not the County, chose to use converters manufactured by GI and the system was approved by the County on the advice of an independent engineering consultant.
2. Purchasing a few hundred shares out of 22,000,000 shares of common stock will give you a negligible ownership interest in GI.
3. There is no direct contractual relationship between the County and GI.

In light of these circumstances, the Ethics Commission believes that you may purchase a few hundred shares of GI stock and continue to perform your functions as administrator of the County's Cable Television Franchise Agreement with CTM without a conflict of interest.

The Ethics Commission would like to caution you, however, that you may not participate in any matter that involves, as a party, GI without first obtaining a waiver from the Ethics Commission. The Ethics Commission would also like to remind you that you must report your GI stock on your Financial Disclosure Statement.

¹ Unless otherwise indicated, section references are to the Montgomery County Code (1984).

² For purpose of this opinion, the Commission assumes that the value of the stock you purchase exceeds \$1,000. Section 19A-11(c) provides that an economic interest must exceed certain thresholds before the conflict of interest rules apply.

If you have any questions regarding this advice, please contact the Commission.