



Lynn Fitch
ATTORNEY GENERAL
OPINIONS AND POLICY

October 1, 2026

C. Jack Armstrong III
Chairman, Mississippi Auctioneer Commission
Post Office Box 50
Morton, Mississippi 39117

Re: Mississippi Auctioneer Commission's Authority Over Certain Online Auction Platforms

Dear Chairman Armstrong:

The Office of the Attorney General has received your request for an official opinion.

Background

According to your request, the Mississippi Auctioneer Commission ("Commission") has become aware of an online platform identified as "Whatnot," which allows sellers to conduct live-streamed sales events in which buyers bid competitively in real time. While the platform allows some purchases to be made at fixed prices, it hosts live auction events in which the final sale price is determined by written and oral exchanges culminating in the acceptance of the highest bid.

Questions Presented

1. Does the Whatnot live-stream auction platform and/or the sellers utilizing the platform fall within the jurisdictional authority of the Commission pursuant to Mississippi Code Annotated Sections 73-4-3 and 73-4-5?
2. What is the Mississippi Attorney General's opinion regarding the meaning and interpretation of the phrase "recurring basis" as used in Section 73-4-5(d)(2)?

Brief Response

1. Whether the Whatnot live-stream auction platform and sellers using the platform fall within the Commission's jurisdictional authority is a factual determination that must be made by the Commission.

2. Under the Mississippi Auctioneers License Act (“Act”), the Commission has the authority to interpret the phrase “recurring basis” according to its common and ordinary meaning since the phrase as used in Section 73-4-5(d) is not defined.

Applicable Law and Discussion

You first ask if the Whatnot live-stream platform and/or the sellers utilizing the platform fall within the jurisdictional authority of the Commission pursuant to Sections 73-4-3 and 73-4-5. Section 73-4-3(a) defines an “auction” thus:

a sale transaction conducted by means of oral or written exchanges between an auctioneer and the members of his audience, which exchanges consist of a series of invitations for offers for the purchase of goods made by the auctioneer and offers to purchase made by members of his audience and culminate in the acceptance by the auctioneer of the highest or most favorable offer made by a member of the participating audience.

Ultimately, whether the Whatnot live-stream platform and/or its sellers fall under the Commission’s authority is a factual determination that must be made by the Commission. *See King v. Miss. Military Dep’t*, 245 So. 3d 404, 408 (Miss. 2018); *see also* MS AG Op., *Armstrong* at *1 (Sept. 27, 2019) (providing “[t]he Commission has the power to interpret its enabling statutes pursuant to Sections 73-4-7 and 73-4-13 so long as those interpretations are consistent with the Constitution and laws of this state.”).

Regarding your second question, the Act does not define the phrase “recurring basis” as used in Section 73-4-5(d). In the absence of a definition of a phrase, Section 1-3-65 provides that “[a]ll words and phrases contained in the statutes are used according to their common and ordinary acceptance and meaning” *See also Buffington v. Miss. State Tax Comm’n*, 43 So. 3d 450, 455 (Miss. 2010) (stating that “in the absence of a statutory definition of a phrase, it must be given its common and ordinary meaning”). The Merriam-Webster Dictionary defines “recurring” as “occurring repeatedly: happening or appearing multiple times.” MERRIAM-WEBSTER.COM, <https://www.merriam-webster.com/dictionary/recurring> (last visited Sept. 29, 2026). It defines “basis” in relevant part as “a fixed pattern or system.” MERRIAM-WEBSTER.COM, <https://www.merriam-webster.com/dictionary/basis> (last visited Sept. 29, 2026). Thus, a “recurring basis” would be a fixed pattern or system which occurs repeatedly or multiple times.

“Executive-branch agencies must follow statutes and, absent a declaration from the judicial branch regarding an interpretation of a statute, must decide what statutes mean.” *King*, 245 So. 3d at 408; *see also* MS AG Op., *Armstrong* at *1. Under the Act, the Commission has the authority to define the phrase “recurring basis” according to its “common and ordinary meaning” since no Mississippi court has defined the phrase as used in Section 73-4-5(d). *See* MS AG Op., *Strong* at *1 (May 10, 1986); MS AG Op., *Head* at *1 (July 28, 1983).

If this office may be of any further assistance to you, please do not hesitate to contact us.

Sincerely,

LYNN FITCH, ATTORNEY GENERAL

By: */s/ Kristi D. Kennedy*

Kristi D. Kennedy
Special Assistant Attorney General

OFFICIAL OPINION