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FCC Enforcement Monitor

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Alaska Noncommercial FM Station Faces $66,000 Fine for EAS and Other Violations

The FCC proposed a $66,000 fine against an Alaska noncommercial FM station for a number of violations, including actions that the FCC says "undermine the effectiveness of the Emergency Alert System (EAS)."

Section 11.15 of the FCC's Rules requires that a copy of the EAS Operating Handbook be located "at normal duty stations or EAS equipment locations when an operator is required to be on duty." In addition, Section 11.35(a) of the Rules states that EAS participants are responsible for ensuring that EAS equipment, such as encoders and decoders, are installed such that "monitoring and transmitting functions are available during the times the stations and system are in operation." Also, Section 11.52(d)(1) requires EAS participants to monitor two EAS sources.

A June 2013 FCC inspection of the station's main studio revealed several violations of the FCC's EAS Rules. Specifically, the FCC agent found that the station (1) did not have an EAS Handbook; (2) did not have properly operating EAS equipment (because the programming and identification of the station's EAS device was for another station); and (3) was only monitoring one EAS source.

In addition, the agent found numerous violations of the FCC's other broadcast rules, including: (1) failure to post a valid license as required by Section 73.1230; (2) failure to maintain a public inspection file as required by Section 73.3527; (3) failure to retain the logs required by Section 73.1840; (4) failure to maintain a main studio staff under Section 73.1125(a); (5) inability to produce documentation designating a chief operator as required by Section 73.1870; and (6) failure to ensure that the station was operating in accordance with the terms of the station authorization or within variances permitted under the FCC's technical rules, as required by Section 73.1400.

The FCC subsequently issued a Notice of Violation ("NOV") to the station in August 2013. When the FCC did not receive a response from the station within the 20-day deadline specified in the NOV, the FCC sent a Warning Letter to the station in September 2013, and issued two additional NOVs in November 2013 and April 2016 directing the station "to provide information concerning the apparent violations described in the August 2013 NOV." Despite signing a receipt for the April 2016 NOV, the station again failed to respond.

The base fine amounts for the apparent EAS violations, broadcast violations, and failures to respond to the NOVs total $11,000, $23,000, and $16,000 respectively. The FCC may adjust a fine upward or downward after taking into account the particular facts of each case. Here, citing the station's failure to respond to FCC documents of four occasions, the FCC concluded that a 100 percent upward adjustment of the base fine for the failures to respond, or an additional $16,000, was warranted. As a result, the FCC proposed a total fine against the station of $66,000.

FCC Proposes $120 Million Fine for Caller ID Spoofing Operation

A Florida man's spoofing campaign has earned him a proposed $120 million fine. The man apparently caused the display of misleading or inaccurate caller ID information ("spoofing") on millions of calls to perpetrate an illegal robocalling campaign.

The Truth in Caller ID Act of 2009, as codified in Section 227(e) of the Communications Act and Section 64.1604 of the FCC's Rules, prohibits any person from knowingly causing, directly or indirectly, any caller ID service to transmit or display misleading or inaccurate caller ID information with the intent to defraud, cause harm, or wrongfully obtain anything of value.

In December 2015 and April 2016, the FCC received complaints from Spōk, Inc. and TripAdvisor, Inc. about robocalls spoofing call recipients' local area codes and offering vacation deals. Spōk complained that the calls were disrupting its emergency medical paging service, and TripAdvisor reported that it had received consumer complaints about robocalls that used its name without its knowledge or permission. The calls apparently mimicked the recipients' local area codes and central office codes (i.e., the first six digits of a phone number) to induce recipients to answer. What followed was a message instructing them to "press 1" to hear more about vacation deals from well-known travel companies. Recipients that pressed 1 were then directed to other travel companies that had contracted to have the calls transferred to them to deliver sales pitches for Mexican timeshares and vacation packages to Mexican timeshare facilities.

After the FCC traced the calls to the Florida man and his company in December 2016, it subpoenaed call records covering a three-month period from October 1, 2016 to December 31, 2016. The FCC's review of the call records revealed that the company made 96,758,223 calls during that time and, based on a sample of 80,000 of those calls that the FCC specifically examined, the FCC concluded that every call was spoofed.

The Communications Act and the FCC's Rules authorize a fine of up to $11,052 for each spoofing violation, or three times that amount for each day of a continuing violation, up to a statutory maximum of $1,105,241 for any single act or failure to act. Here, the FCC proposed a base fine amount of $1,000 for each of the 80,000 calls that the FCC specifically found to be spoofed, for a total base fine amount of $80 million. In addition, citing the "exponential harm associated with large scale spoofing operations where the spoofer has the intent to defraud, cause harm, or wrongfully obtain something of value," the FCC proposed an upward adjustment of $40 million, for a total proposed fine of $120 million.

South Carolina AM Station Faces $1,500 Proposed Fine for Late-Filed License Renewal

The FCC proposed a $1,500 fine against a South Carolina AM station for failing to timely file its license renewal application. Section 73.3539 of the FCC's Rules requires stations to file their license renewal applications "not later than the first day of the fourth full calendar month prior to the expiration date of the license sought to be renewed."

Here, the station's license renewal application should have been filed by August 1, 2011, four months before the station's December 1, 2011 license expiration date. However, the application was not filed until November 9, 2011, and the station did not provide an explanation for the late filing.

The FCC's guidelines establish a base fine amount of $3,000 for failing to file a required form. However, acknowledging that the station filed its license renewal application prior to the expiration of its current license, and considering each of the factors required by its guidelines, the FCC determined that a downward adjustment to $1,500 was appropriate. Notwithstanding the circumstances leading to the reduced fine, the FCC stated that it would withhold grant of the station's license renewal application until the station pays the fine.