
FCC Enforcement Monitor

By Scott R. Flick and Jessica Nyman

Headlines:

- *Individual fined \$25,000 for Unauthorized “Chanting and Heavy Breathing” on Public Safety Station*
 - *Failure to Timely Request STA Results in \$5,000 Fine*
 - *FCC Imposes \$11,500 Fine for Intentional Interference and Station ID Violation*
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FCC Fired up by a New Yorker’s Deliberate Disregard for Public Safety

Earlier this month, the FCC imposed a \$25,000 fine against a New York man for operating a radio transmitter without a license and interfering with the licensed radio communications system of the local fire department. Section 301 of the Communications Act provides that “[n]o person shall use or operate any apparatus for the transmission of energy or communications or signals by radio . . . except under and in accordance with [the Act] and with a license.” Section 333 of the Act prohibits a person from willfully or maliciously interfering with any radio communications of any station licensed or authorized under the Act or operated by the United States government.

On October 31, 2013, the local fire department complained to the FCC that unauthorized transmissions of chanting and heavy breathing were interfering with its radio communications system. When the transmissions occurred during fire emergencies, the firefighters were forced to switch to an alternate frequency to communicate with each other and with the dispatchers. FCC agents traced the source of the interfering transmissions to an individual’s residence—a location for which no authorization had been issued to operate a Private Land Mobile Station. County police officers interviewed the individual and confirmed that one of his portable radios transmitted with the unique identifying code that the fire department observed when the unauthorized transmissions interfered with its communications. The officers subsequently arrested the individual for obstruction of governmental administration.

The FCC found the individual’s conduct was particularly egregious because his unlicensed operations hampered firefighting operations and demonstrated a deliberate disregard for public safety and the Commission’s authority and rules. Thus, while the FCC’s base fines are \$10,000 for operation without

authorization and \$7,000 for interference, the FCC found that an upward adjustment of \$8,000 was warranted, leading to the \$25,000 fine.

Discontinuing Operation of Maryland AM Station Leads to FCC Fine

This week, the FCC issued a \$ 5,000 fine to a Maryland radio licensee for discontinuing operation of its AM station without timely requesting Special Temporary Authority (“STA”). Section 73.1740 of the FCC’s Rules requires stations to adhere to minimum operating requirements and, under Section 73.1740(a)(4), if a station is unable to operate in compliance with its license for more than 30 days, it must request authority from the FCC to remain silent.

The violation was discovered because the FCC’s license renewal application form asks a licensee to certify that, during the license term, the station has not been silent (or operating for less than its prescribed minimum operating hours) for any period exceeding 30 days. In its 2011 license renewal application, the licensee answered “no” in response to this question, and explained that it had been silent from January 28, 2005 to March 22, 2005 and again from February 11, 2009 to March 25, 2009. FCC records showed, however, that the licensee filed a request for STA on March 16, 2009, and resumed operations on April 15, 2009. FCC records also showed that the licensee had been silent from July 15, 2011 to June 30, 2012, and that the licensee failed to notify the FCC until March 6, 2012.

The FCC determined that an STA request for the station’s July 15, 2011 to June 30, 2012 silent period should have been filed by August 15, 2011 but was not filed until March 6, 2012. Finding no reason to reduce or cancel the fine, the FCC imposed the full \$5,000 base fine for the seven month period of unauthorized silence.

Amateur Radio Station Operator Pays the Price for Ignoring FCC Warnings

On January 13, the FCC imposed a fine of \$11,500 against an amateur radio station operator in Pennsylvania (the “Operator”) for intentionally causing interference to other amateur radio operators and failing to provide station identification.

Section 333 of the Communications Act provides that “[n]o person shall willfully or maliciously interfere with or cause interference to any radio communications of any station licensed or authorized by or under the Act or operated by the United States government.” Willful and malicious interference includes “intentional jamming, deliberate transmission on top of the transmissions of authorized users already using specific frequencies in order to obstruct their communications, repeated interruptions, and the use and transmission of whistles, tapes, records, or other types of noisemaking devices to interfere with the communications or radio signals of other stations.” Additionally, Section 97.101(d) of the FCC’s Rules provides that “[n]o amateur operator shall willfully or maliciously interfere with or cause interference to any radio communications signal.” Section 97.119(a) states that “[e]ach amateur station . . . must transmit its assigned call sign on its transmitting channel at the end of each communication, and at least every 10 minutes during a communication, for the purpose of clearly making the source of the transmissions from the station known to those receiving the transmission.”

On March 14, 2014, agents from the Enforcement Bureau’s Philadelphia Office responded to several amateur licensees’ complaints of intentional interference on the frequency 14.313 MHz. Using mobile direction finding techniques, the agents traced the source of the interfering transmissions to the Operator’s amateur station. The agents monitored the station for three hours and heard him transmit Slow-Scan TV

emissions and a prerecorded voice transmission of another amateur station on the frequency. Agents did not, however, hear the Operator transmit his call sign over that three hour period.

When the agents interviewed the Operator, he confirmed that his station was capable of transmitting on 14.313 MHz, but claimed that he did not operate his amateur radio station that morning and was not home when the interfering transmissions occurred. The FCC rejected that claim, finding that the transmissions “were a deliberate act to monopolize the frequency and prevent other amateur radio operators from conducting legitimate communications.” Additionally, the FCC concluded that the Operator violated the station ID Rule by failing to transmit his assigned call sign during the three hours the agents had listened to his station.

The FCC determined that a \$3,500 upward adjustment to the \$8,000 base fine (\$7,000 for interference and \$1,000 for lack of station ID) was warranted since the Operator had been previously warned about causing intentional interference. The FCC found that the Operator’s subsequent interference with other amateur licensees demonstrated deliberate disregard for the FCC’s authority, and the FCC warned the Operator that similar violations in the future could result in significantly higher fines or revocation of his license.

If you have any questions about the content of this Advisory, please contact the Pillsbury attorney with whom you regularly work, or the authors below.

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