

FCC Enforcement Monitor

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HEADLINES

Pillsbury's communications lawyers have published the FCC Enforcement Monitor monthly since 1999 to inform our clients of notable FCC enforcement actions against FCC license holders and others. This month's issue includes:

- *Low Power FM Licensee Cedes De Facto Station Control Through Contract*
- *Pirate Radio Station Operator Arrested During Live Broadcast*
- *Northeast Property Owners Warned Over Illegal Radio Broadcasts*

Short-Term License Renewal and \$2,000 Consent Decree for LPFM Control Violation

The FCC's Media Bureau entered into a Consent Decree with the licensee of a North Carolina low power FM (LPFM) station to resolve an investigation into whether the licensee violated Section 310(d) of the Communications Act and Section 73.865 of the FCC's Rules. Under those provisions, an LPFM station cannot be transferred or assigned to another party without the FCC's prior consent.

To determine whether control of a broadcast station has transferred, the FCC considers "actual or legal control, direct or indirect control, negative or affirmative control, and *de facto* as well as *de jure* control." An analysis of *de facto* control looks at the exercise of control over a station's programming, personnel, and finances, among other things. Surrendering control over these matters to another person transfers *de facto* control of the station.

Following receipt of a complaint alleging the station's former licensee was controlling the station pursuant to a local marketing agreement, the FCC conducted an investigation. It concluded that the current licensee had ceded control of the station to the former licensee by entering into an agreement that gave the former licensee "sole right and privilege to determine the selection of programs" and required the station to "broadcast the provided programming, in its entirety, as delivered by [the former licensee] without any editing, 24 hours per day, 7 days per week." Broadcast licensees are not allowed to convey such unfettered control over a station's programming to another party.

To conclude the investigation, the licensee entered into a Consent Decree with the Media Bureau in which the licensee admitted the facts stated in the Consent Decree and agreed to implement a three-year compliance plan and make a \$2,000 voluntary contribution to the U.S. Treasury. In return, the station's license was renewed, but for a drastically shortened one-year term rather than the normal eight years.

Pirate Radio Station Operator Arrested by Local Police Serving Search Warrant

A Miami pirate radio operator was arrested by local deputies when they served a search warrant on his location during a live broadcast. The deputies then seized the pirate's broadcasting equipment. According to news reports, the operator was arrested in 2007 for operating a pirate radio station, and was fined \$120,000 by the FCC in 2024 after failing to respond to a Notice of Apparent Liability for Forfeiture (NAL) regarding additional pirate broadcasts.

Despite the \$120,000 fine, the FCC found itself issuing a further NAL against the pirate radio station operator in February 2025 proposing a \$325,322 fine after he failed to pay the 2024 fine and continued illegally broadcasting (we wrote about the 2025 NAL [here](#)).

In its most recent NAL, the FCC reiterated the dangers of illegal radio operations, stating that they “can interfere with licensed communications, including authorized broadcasts and communications by public safety entities. Moreover, such illegal operations pose a danger to the public because they interfere with licensed stations that inform their listeners of important public safety messages, including Emergency Alert System transmissions that provide vital information regarding weather events and other dangers to the public.”

After his arrest, the pirate radio station operator was sent to a county correctional facility on a \$2,500 bond.

FCC Continues Pursuing Property Owners for Pirate Radio Tenants

Property owners in Connecticut and New York received a *Notice of Illegal Pirate Radio Broadcasting* after receiving complaints that unlicensed FM broadcast signals were emanating from their properties. Using direction-finding techniques, FCC field agents confirmed that the signals were in fact coming from the properties in question and that no licenses had been issued for radio transmissions from those locations.

The Preventing Illegal Radio Abuse Through Enforcement (PIRATE) Act, adopted by Congress and signed into law in 2020, empowers the FCC to act against pirate radio station operators and also against landowners who knowingly and willfully allow pirate radio activity on their property. Fines can reach up to \$2,453,218. Notices like the ones issued to the property owners in these cases are used by the FCC to ensure that illegal pirate stations are shut down, even if it means holding the property owner accountable for the unauthorized broadcasts.

A *Notice of Illegal Pirate Radio Broadcasting* requires the landowner to respond to the FCC within ten business days and to provide evidence that pirate radio broadcasts are no longer occurring on their property. The notice also requests that the landowner identify the individual(s) that engaged in pirate radio broadcasting on their property. If the FCC is unsatisfied with the response, it may elect to proceed with an enforcement action, including imposing a multi-million-dollar fine against the property owner.