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FCC Enforcement Monitor  
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## Communications Advisory

### FCC Enforcement Monitor

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#### **FCC Fines Owner of California Cable System \$6,400 for Failing to Maintain Operational EAS Equipment**

The Commission recently fined a California cable system operator for violating the FCC's rules regarding EAS equipment. In August 2006, an Enforcement Bureau agent discovered that the cable system's EAS equipment had not been installed. Later, the agent determined that no waiver of EAS requirements had been granted to the system operator. In December 2006, a letter of inquiry was sent to the system operator regarding the state of the EAS equipment. The system operator failed to respond to that letter. In February 2007, an additional letter of inquiry was sent. The system operator's subsequent response indicated that the EAS equipment had been installed but had not been operational prior to the August 2006 inspection. Additionally, the system operator indicated that a period of two years had passed during which the operator had failed to install the EAS equipment. Section 11.35 of the Commission's Rules requires that EAS equipment be installed and operational to ensure that all EAS functions are in working order should they be needed while the station is in operation. Consequently, the Bureau issued a fine of \$8,000.

The system operator requested a reduction of the fine, based on its inability to pay and past compliance with the Commission's requirements. The Commission rejected the system operator's financial hardship claim, noting that the amount of the fine did not exceed two percent of the system operator's average gross revenue. However, the Commission did reduce the fine to \$6,400 based on the system operator's history of compliance with the Commission's Rules.

#### **Commission Fines Radio Station Licensee \$12,000 for Failure to Properly Enclose Antenna Tower and Failure to Maintain Operational EAS**

A Mississippi licensee was recently fined \$12,000 for violating the Commission's rules regarding antenna structures and EAS equipment. In May 2004, an Enforcement Bureau agent discovered that a portion of the fence surrounding the licensee's antenna structure was damaged and lying on the ground. The agent also discovered that the licensee did not have EAS equipment. The General Manager of the radio station explained that the station had not had EAS equipment since his employment with station began in October

2003. The General Manager also explained that the fence had been damaged since October 2003. The station was ultimately fined \$12,000 for these violations.

The licensee argued for a reduction of the fine by claiming that its violations were not willful because the station owner was unaware the violations existed. The owner claimed that he relied on his employees to manage the radio station and that he had not been informed by the General Manager about the EAS equipment or the fence. The Commission rejected this argument, explaining that licensees are responsible for actions (and lack thereof) by their employees. The Commission noted that licensees cannot escape penalties merely because an employee's actions resulted in the violation, as that would permit licensees to avoid compliance with the rules by being inattentive to any potential violation occurring at their stations.

### FCC Issues Several Citations for Failure to Conspicuously Display Registration Numbers on Antenna Structures

Recent activity by the Commission indicates an increase in citations for violations of 47 C.F.R. § 17.4(g), the requirement that "the Antenna Structure Registration Number must be displayed in a conspicuous place so that it is readily visible near the base of the antenna structure." The Commission's Rules also require that "materials used to display the Antenna Structure Registration Number must be weather-resistant and of sufficient size to be easily seen at the base of the antenna structure." Several notices of violation were issued during the months of August and September where Enforcement Bureau agents were unable to find visible Antenna Registration Numbers on the antenna structures during inspections of the respective transmitter sites.

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