

FCC Enforcement Monitor

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HEADLINES

Pillsbury's communications lawyers have published 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:

- *FCC Proposes Forfeitures Against South Carolina Stations for Failure to Maintain Public Inspection File*
- *Noncommercial Station and FCC Settle Dispute Over Promotional Announcements*
- *Brooklyn-based Bitcoin Miner Warned Over Harmful Interference*
- *FCC Issues Notice to Security Camera Manufacturer for Device ID Violations*

FCC Proposes Fine Against Licensee of South Carolina Stations for Failure to Maintain Complete Public Files

In two separate Notices of Apparent Liability for Forfeiture (“NALs”) released on the same day, the FCC found two commonly owned radio stations apparently liable for repeated violations of its public inspection file rule.

Section 73.3526 of the FCC's Rules requires stations to maintain a public inspection file that includes various documents and items related to the broadcaster's operations. For example, subsection 73.3526(e)(11) requires TV stations to place in their public inspection file Quarterly Issues/Programs Lists describing the “programs that have provided the station's most significant treatment of community issues during the preceding three month period.”

In their respective license renewal applications, the stations disclosed that they had failed to locate numerous Quarterly Issues/Programs Lists from the 2003 to 2010 time period. According to the licensee, the gaps in its reporting were due to several personnel changes at all levels of the stations as well as computer and software changes made over the past ten years.

Between the two NALs, the FCC found a total of 38 missing Lists (21 for one station, and 17 for the other station), which it considered a “pattern of abuse.” Pursuant to the FCC's forfeiture policies and Section 1.80(b)(4) of its Rules, the base forfeiture for a violation of Section 73.3526 is \$10,000. The FCC can adjust the forfeiture upwards or downwards depending on the circumstances of the violation. Here, the FCC proposed a \$12,000 forfeiture in response to the station with 21 missing Lists and a \$10,000 forfeiture for the station with 17 missing Lists. [Visit here](#) to learn more about the FCC's Quarterly Issues/Programs List requirements. For information on maintaining a public inspection file, check out Pillsbury's [recent advisory on the topic](#).

“Ad” Nauseam: FCC Resolves Investigation Into Underwriting Rules Violation

The FCC entered into a Consent Decree with the licensee of two noncommercial educational (“NCE”) radio stations in Arizona and California after receiving complaints that the stations aired commercial advertising in violation of the Communications Act and the FCC’s Rules (together, the “Underwriting Laws”).

Section 399B of the Communications Act of 1934 prohibits noncommercial stations from making their facilities “available to any person for the broadcasting of any advertisement.” Section 73.503(d) of the FCC’s Rules prohibits an NCE station from making promotional announcements “on behalf of for profit entities” in exchange for any benefit or payment. Such stations may, however, broadcast “underwriting announcements” that identify but do not “promote” station donors. Such identifications may not, among other things, include product descriptions, price comparisons, or calls to action on behalf of a for-profit underwriter. The FCC recognizes that it is “at times difficult to distinguish between language that promotes versus that which merely identifies the underwriter,” and expects licensees to exercise good faith judgment in their underwriting messages.

In response to complaints from an individual who alleged that the stations had repeatedly violated the Underwriting Laws, the FCC sent the licensee multiple letters of inquiry regarding questionable underwriting messages between August 2016 and March 2017. According to the FCC, the licensee did not dispute many of the facts in the letters, and the parties entered into the Consent Decree shortly thereafter. Under the Consent Decree, the licensee (1) admitted that it violated the Underwriting Laws; (2) is prohibited from airing any underwriting announcement on behalf of a for-profit entity for one year; (3) must implement a compliance plan; and (4) must pay a \$115,000 civil penalty.

Brooklyn Bitcoin Mining Operation Draws FCC Ire Over Harmful Interference

The FCC issued a Notification of Harmful Interference (“Notification”) to an individual who was operating Bitcoin mining hardware in his Brooklyn, New York home.

Section 15 of the FCC’s Rules regulates the use of unlicensed equipment that emits radio frequency energy (“RF devices”), a broad category of equipment that includes many personal electronics, Bluetooth and WiFi-enabled devices, and even most modern light fixtures. Such devices must not interrupt or seriously degrade an authorized radio communication service. The FCC’s rules require a device user to cease operation if notified by the FCC that the device is causing harmful interference.

Following a complaint from a major wireless carrier about interference to its 700 MHz LTE network, FCC agents detected spurious emissions on the 700 MHz band coming from the Brooklyn man’s residence and concluded that the man’s Bitcoin mining device was causing the interference. Bitcoin mining is the process through which individuals compute and verify the cryptocurrency’s transactions. The first individual to correctly verify a transaction earns new bitcoin.

The 700 MHz band of spectrum is particularly valuable (it is often referred to as “beach-front property”) because of its ability to cover large areas and penetrate buildings without significant degradation. As a result, it is generally used for wireless broadband services.

In the Notification, the FCC demanded that the man cease operation of the device in question. However, it stated that the Notification does not address other devices of the same make and model, suggesting that this device may have been modified or used in a particular way that resulted in harmful interference. The individual has 20 days from the date of the warning to respond to questions contained in the Notification, including whether he is still using the device, the device’s technical specifications, steps the individual intends to take to prevent additional harmful interference, and where he bought the device.

Show Me Your ID: FCC Investigates School Security Camera Company for Failure to Label Devices

In another action involving RF devices, an investigation that began with complaints of harmful interference to a public school's licensed frequencies resulted in a Notice of Violation against a manufacturer of video cameras for failure to properly label its devices.

Manufacturers of RF devices must adhere to **strict equipment authorization and labelling standards**. Section 2.925(a)(1) of the FCC's Rules requires authorized equipment to be labelled with a unique FCC Identifier, which must be large enough to be read without the use of magnification.

In November of last year, a Washington state public school complained to the FCC of interference on its licensed frequencies. When an FCC agent examined a set of digital surveillance cameras that were part of the system allegedly causing the interference, the agent was unable to locate an FCC Identifier on either camera.

The FCC therefore issued a Notice of Violation to the camera manufacturer seeking additional information regarding the violation. The manufacture must respond to the FCC within 20 days with a detailed explanation of the violation and all corrective measures it has taken or plans to take to address the problem.