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Communications Broadcast Advisory

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FCC Fines Arizona Radio Station $8,000 for Violating the Commission's Emergency Alert System Rules

The FCC recently fined an Arizona radio station $8,000 after determining that the station had violated the Commission's Emergency Alert System (EAS) testing requirements and equipment rules. In August 2005, an Enforcement Bureau agent inspected the station's main studio and observed that there was no EAS equipment in place. The station's owner confirmed that the station did not have its own EAS equipment, but informed the agent that the station was airing EAS tests received and transmitted by a second station via a studio-to-transmitter link. The two stations had previously been co-owned and co-located. Upon further investigation, the agent found that EAS tests were being aired as claimed, but that there was no valid agreement between the two stations to share EAS equipment in this fashion. The agent also found that employees of the second station had no knowledge of any such sharing arrangement.

The Bureau found that while Section 11.51(j) allows "broadcast stations that are co-owned and co-located with a combined studio or control facility to provide EAS for the combined stations with one EAS encoder" they do no permit stations with different main studio locations or ownership from sharing EAS equipment in this fashion. In imposing a fine of $8,000, the Bureau rejected the station's argument that a lower fine was justified because the station had rarely been called upon to transmit state EAS alerts. The Bureau also refused to reduce the fine in light of the station's record of public service, since the EAS requirements are themselves "one of the fundamental public service requirements placed on broadcast stations."

FCC Finds Multiple Entities for Violating the Commission's Antenna Structure Rules

The FCC recently fined two broadcasters and an antenna structure owner for violating various aspects of the Commission's Rules concerning antenna structures. In the first decision, the FCC fined a Pennsylvania radio station $3,000 for failing to register its antenna structure properly. In March 2005, agents of the Enforcement Bureau inspected the station's antenna array and determined that two of the structures had not been properly registered. The station had impermissibly filed a single antenna registration to cover both structures, using the center coordinates of the array. The station had previously been cited for the same violation in January 2001. Accordingly, the Bureau fined the station $3,000.

In a second case, the FCC fined a New Hampshire radio station $7,000 for failing to enclose its antenna structure within a locked fence as required by Section 73.49 of the Commission's Rules. In May 2004, an Enforcement Bureau agent found that the fence around the structure had a large gap, and that a portion of the fence was collapsing. The licensee argued that it did not own the antenna structure at issue, and that a fine was therefore inappropriate. In rejecting that argument, the Bureau noted that "[t]he fencing requirements in Section 73.49 of the Rules … apply to AM licensees, not antenna structure owners" and that "the responsibility for complying with Section 73.49 of the Rules does not shift to the antenna structure owner in cases where the licensee and antenna structure owner are different entities."

In a third case, the FCC fined an antenna structure owner $8,000 for failing to properly clean and repaint its antenna structure as required by Section 17.50 of the Commission's Rules. In March 2005, an Enforcement Bureau agent observed that the white paint on the structure had faded, such that underlying orange paint could be seen. The owner's chief maintenance technician was advised of the situation, but a May 2005 follow-up inspection revealed that no painting had been done. In fining the owner $8,000, the Bureau rejected the owner's argument that Section 17.50 is "inherently subjective," concluding that the structure had not been maintained properly "[b]y any reasonable standard."

FCC Fines Puerto Rico Radio Station $8,800 for Failing to Comply with the Terms of its License and for Violating the Commission's Public Inspection File Rule

The FCC recently fined a Puerto Rico radio station $8,800 for failing to operate in accordance with the terms of its license or to maintain a complete public inspection file. In February 2006, Enforcement Bureau agents inspected the station and found that it was operating in a non-directional mode, although its license specified a directional array. The station's engineer informed the agents that the station had been operating in this manner for more than a year. The agents also found that the station's public inspection file did not contain any quarterly issues/programs lists as required by Section 73.3526 of the Commission's Rules.

The Bureau initially proposed to fine the station $11,000 for these violations. In response, the station did not contest the violations themselves, but asserted that any fine should be cancelled in light of the station's history of compliance with the Commission's Rules. The Bureau found "no basis for cancellation," as the station had "willfully and repeatedly violated Sections 73.1350(a) and 73.3526 of the Rules by failing to operate its station in accordance with the terms of the station authorization and failing to maintain a complete public inspection file for public inspection." However, the Bureau did reduce the fine to $8,800 based on the station's history of compliance.

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