
FCC Enforcement Monitor

by Scott R. Flick and Lauren A. Birzon

Headlines:

- *FCC Takes Action against Illegal Jamming Devices*
 - *Unlicensed Transmitter Gets Renter into Trouble*
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FCC Goes After Marketing and Sale of Illegal Jamming Devices

The FCC's enforcement efforts this month focused heavily on the marketing and sale of illegal signal jamming devices. The advertising, sale, or operation of devices which jam GPS, cell phone, or other wireless communications is prohibited under Section 301 of the Communications Act as well as under the FCC's Rules. As the Commission has previously noted, it is unlawful to use a jammer, even on private property. In the span of a week this October, the FCC issued eight "Citation and Order" actions against companies and individuals it determined were unlawfully advertising jammers for sale on Craigslist.org.

In those orders, the FCC emphasized that it views unlawful operation of jammers as a public safety hazard. In several of the orders, the Enforcement Bureau wrote that it is "increasingly concerned that individual consumers who operate jamming devices do not appear to understand the potentially grave consequences of using a jammer. Instead these operators incorrectly assume that their illegal operation is justified by personal convenience or should otherwise be excused." Because of this, the FCC cautioned that going forward, it "intend[s] to impose substantial monetary penalties, rather than (or in addition to) warnings, on individuals who operate a jammer." The FCC added that "substantial monetary penalties" in these cases would mean up to \$16,000 per violation, or, in the case of a single continuing violation, \$16,000 per day up to a total of \$112,500.

The Enforcement Bureau indicated that the FCC will continue to target individuals and companies involved in the illegal advertisement, sale, or operation of jammers. In fact, on October 15th, the Bureau launched a dedicated jammer tip line – 1-855-55-NOJAM – to make it easier for members of the public to report the use or sale of illegal jammers. It also released an [Enforcement Advisory](#) explaining the FCC's "zero tolerance" policy regarding the unlawful sale and operation of jammers. Based on these recent actions by the FCC, we expect to see a growing number of signal jamming fines in the months ahead.

Turning a Blind Eye to Illegal Operations Is Also a Violation of the FCC's Rules

This month, the FCC issued a Notice of Apparent Liability for Forfeiture (“NAL”) against a property renter after finding that an unlicensed transmitter was being operated on his leased property. What makes the case interesting is that the renter claimed the equipment was not his, and was actually operated by unnamed third parties (the classic “not my stash” defense).

In September 2012, agents from the FCC’s Enforcement Bureau, responding to a complaint, used direction-finding equipment to locate the source of the suspect radio transmissions. They found an FM transmitting antenna mounted to the chimney of a residence. The antenna was emitting signals exceeding the FCC’s limits for unlicensed operation under Part 15 of the FCC’s Rules. Upon subsequent inspection of the FCC’s records, the agents determined there was no FCC authorization for the antenna, nor for any antenna near that address.

The following day, the agents returned to the property with the property owner and found a transmitter located in a locked basement room in the residence. The agents then questioned the renter of that room about the antenna, transmitter, and an accompanying computer which fed audio to the transmitter. The renter admitted to having installed the equipment, but denied that he was operating the unlicensed station. He claimed that unnamed individuals owned and operated the equipment and gave him money each month to pay the rent. The renter further claimed that the operators had not provided him with their names, but had informed him that the FCC might inspect the station and order him to cease operations because of unlawful operations.

Apparently not convinced by the renter’s defense, the FCC issued an NAL for \$10,000 against the renter for operating a station without FCC authorization. The NAL clarified that “operating” a station means both the technical operation of the station and the “general conduct or management of a station as a whole.” Noting that the renter himself acknowledged that he had been told by the unnamed “operators” that the operation was illegal, the FCC indicated that “in spite of the warning, [the renter] nonetheless allowed the station to continue to operate in his basement.” Under the circumstances, the FCC concluded that the renter’s actions qualified as being involved in the general conduct or management of a station, defined to include “any means of actual working control over the operation of the [station].” The FCC therefore concluded that the renter did in fact “operate” the unlicensed radio station, justifying the proposed fine. In addition, the FCC noted that it had difficulty believing the renter’s claimed defense, indicating that “we find it implausible that [the renter] (or anyone for that matter) would install radio equipment, rent space, allow for unlawful operations in the rented space, and incur potential financial and other liability on behalf of complete strangers.”

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

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