

FHH Telecom Law
June 2004

**FCC Questions Equipment Certification
for Non-Compliant Transmitters**

By: Donald J. Evans
703-812-0430
evans@fhhlaw.com

The FCC has taken the rare step of issuing an Order to Show Cause against an equipment manufacturer as the first step in formally revoking an equipment certification. In 2001 the FCC granted a certification to J Communications Co., Ltd. to market a specific model of General Mobile Radio Service (GMRS) radio. GMRS service is limited by rule to short-range voice communications, with non-voice data prohibited. The FCC received a complaint -- quite possibly from a competitor of the grantee -- that the J Communications radios could transmit, in addition to voice, the user's location as determined by a built-in GPS receiver. That is unmistakably data.

In defense, the manufacturer pointed out that the instruction manual, submitted to the FCC as part of the certification application, clearly explained the location function. But the FCC was not impressed. The application itself only asked for authority to engage in voice emissions, it said, and in any case, both the rules and the certification grant authorized only voice emissions.

Equipment manufacturers can take away three lessons from the incident. First, no matter what the instruction manual says, it's the application form and certification grant that define the authorization. Second, it's hard to fool your competitors, who can and do report equipment violations to the FCC. And third, while the FCC rarely pulls out the big gun of revocation, it's a weapon that can be very costly to a manufacturer with a warehouse full of non-compliant products.