

**FHH Telecom Law**  
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**The Commission's Not Gonna Be Ignored**

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The FCC has been stepping up enforcement against companies that market digital devices. Nowadays this very broad category includes almost every consumer product that uses batteries or wall current – not just PCs and laptops, but also CD players, TVs, cameras, coffee makers, toy dolls, and a staggering array of other items. All of these send out radio waves as an unintended byproduct. Because they have the potential to interfere with radio communications, the FCC has jurisdiction to determine what can lawfully go on sale.

So-called Class A digital devices, which can be used only in commercial and industrial environments, are allowed higher emissions levels and more lenient regulatory procedures. Enforcement against Class A devices is rare. But the FCC recently admonished a company that makes a device having Class A components for overlooking the applicable procedures. The FCC made clear that it would have imposed a monetary fine, had the offenses not predated the one-year statute of limitations

Class B digital devices, which make up the vast majority, are those marketed for use by consumers or in residential areas, or which have mixed consumer and commercial applications (such as PCs). On the same day as its Class A admonition, the FCC imposed a \$14,000 fine against a manufacturer of Class B personal computers that were not compliant with the required procedures. That company got off relatively easily. Last February an importer of Class B digital sound equipment was hit with a \$1 million fine.

In none of these cases did the FCC allege that the devices actually caused interference, or even that they exceeded the applicable technical standards. The offenses were wholly administrative. To avoid the enforcement action, all these companies had to do was test the product for technical compliance, apply the right labels, and keep certain records. No FCC submission or approval was required.

When dealing with the government, reality does matter, but the paperwork is what really counts.