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Focus on FCC Fines

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That's right, you're STILL not from Texas – Last August FCC agents paid a visit to a couple's home in Austin, Texas, to investigate if an illegal broadcast on 90.1 MHz was coming from the house. The couple readily admitted that they were operating the station but then attempted to turn the tables on the FCC. The couple claimed that the FCC did not have jurisdiction in Texas and further questioned the authority of the FCC agent who pursued them. In the end, the couple was hit with a \$10,000 fine.

The FCC had received complaints about unauthorized broadcasts in Austin and dispatched agents to investigate. The agents tracked the signals to a residence and sent a letter to the couple living there warning them that if they continued to broadcast they could face a fine. The couple refused to shut off their transmitter despite the warning from the FCC.

Instead of heeding the government's warning, the couple fired back a response. It seems that the couple was convinced that because their radio signal did not leave the boundaries of the state of Texas, the federal government had no business regulating their signals. As we observed in the November, 2009, Memo to Clients (which reported on a similar claim made by another Texas pirate), the FCC has little tolerance for this particular argument. The FCC referred the couple to the federal law that empowers the FCC to regulate both interstate and intrastate radio signals.

Undeterred, the couple then set its sights on the guy who signed the FCC's warning letter. They claimed that the FCC agent was powerless and had no authority to do his job. Again, the FCC was not sympathetic and gave the couple a reference to its regulations which delegated authority to FCC employees.

The FCC showed up at the house a few more times and found the couple still broadcasting. In response to the continued broadcasts – even after the warning letter – the FCC has ordered the couple to pay a \$10,000 fine for its pirate broadcasts. What remains undecided is whether the couple recognizes the U.S. Dollar as currency or whether they will issue their own scrip instead.

FCC already had the paperwork, cancels station's fine – More than three years ago, the FCC proposed fining an Iowa FM station for continuing to broadcast after the station had failed to file its renewal application. The FCC was quick to scold the station for its oversight and took aim at the station with a \$7000 fine.

“Not so fast”, replied the station. It provided the FCC a reference number to a renewal application that had indeed been entered into the FCC’s computer system in a timely matter. However, it seems that the station attempted the filing without assistance of counsel and encountered difficulty navigating the FCC’s system. As a result, although the station filled out parts of its application, it missed a few steps and overlooked the most important task of paying the government its fee. Nonetheless, enough of the paperwork had been submitted that the FCC considered the application filed.

The FCC admitted that although the station had done an incomplete job, it had indeed filed the renewal paperwork. As a result, the \$7,000 fine was cancelled. Not missing an opportunity to generate revenue, the FCC did assess a different penalty. The station was penalized for making a late filing in light of the incomplete data entry job.

This latest decision by the FCC should encourage all stations to hire professionals or to take particular care when submitting government applications or pursuing filings with the FCC.

Wyoming AM/FM hit with \$17,500 fine for obvious oversights – When the FCC conducts a station inspection, there are certain things that even the swiftest General Manager cannot talk his or her way out of. One of those items is the location of the station. The FCC encountered such an instance in a 2008 inspection of a Rawlins, Wyoming AM/FM combo.

Denver agents swept into Rawlins and conducted a two day inspection of the two stations. One standard procedure for FCC agents is to review a station’s Emergency Alert System logs and equipment. When the FCC checked into the stations EAS gear, they discovered that the station was not monitoring any EAS assignments and had not been conducting regular testing.

The agents didn’t stop with the EAS equipment. They sat down and reviewed the station’s public file. A few items were missing from the public file and the FCC fined the station for the missing documents, too.

In addition, the agents spotted some microwave equipment at the studio and ran it through the FCC license database. Although the station did have an FCC license for the microwave hop, it was for a different location. Upon further discussion with station

personnel, the FCC agents discovered that the equipment was moved about a mile down the road, but nobody at the station had apparently bothered to complete the FCC paperwork to let the government know. Although the station's staff may have thought that the move was insignificant because it created no interference, FCC rules require current and accurate technical data at all times. Relocating gear down the road requires a notification to the FCC.

The FCC originally proposed a \$20,000 fine for these violations. However, the penalty was reduced to \$17,500. The reduction was attributed to the public file failures; the penalties for failing to notify the FCC of the microwave relocation and the EAS failures remained unchanged.

Stations should be aware that the FCC regulates not only the TV or radio transmitters at the station, but also microwave links, news vans with mobile links and perhaps even your walkie talkies. When studio moves occur, care must be taken to (a) identify all FCC licenses that are affected by the move and (b) obtain FCC approval that may be necessary for all such moves.