

Before the  
Federal Communications Commission  
Washington, DC 20554

In the Matter of	)	
	)	
SAGA COMMUNICATIONS	)	File No. EB-01-IH-0230
OF NEW ENGLAND, INC.	)	NAL Account No. 20043208000014
	)	Facility ID No. 46963
Licensee of Station WLZX(FM),	)	FRN No. 0002749406
Northampton, Massachusetts	)	
	)	
and	)	
	)	
WESTERN MASS RADIO COMPANY	)	Facility ID No. 25906
	)	FRN No. 0003763935
Licensee of Station WRNX(FM),	)	
Amherst, Massachusetts	)	

**NOTICE OF APPARENT LIABILITY FOR FORFEITURE**

**Adopted: February 17, 2004**

**Released: February 19, 2004**

By the Chief, Enforcement Bureau:

**I. INTRODUCTION**

1. In this Notice of Apparent Liability for Forfeiture (“NAL”), we find that, on January 25, 2001, Saga Communications of New England, Inc. (“Saga”), licensee of Station WLZX(FM), Northampton, Massachusetts, apparently willfully violated section 73.1206 of the Commission’s rules by recording and broadcasting a telephone conversation without first notifying a party to the call of its intention to do so.<sup>1</sup> Based upon our review of the facts and circumstances in this case, and for the reasons discussed below, we conclude that Saga is apparently liable for a monetary forfeiture in the amount of Four Thousand Dollars (\$4,000.00). Further, we deny a complaint filed by Saga against Western Mass Radio Company (“Western”), licensee of Station WRNX(FM), Amherst, Massachusetts, for abuse of Commission processes and attempted unauthorized transfer of control, and dismiss Saga’s request for a revocation proceeding against Western.

**II. BACKGROUND**

2. The Commission received a complaint from Western alleging that, on January 25, 2001, Saga broadcast a telephone conversation between Station WLZX(FM) radio personality Christopher Laursen and Station WRNX(FM) radio personality Dave Sears.<sup>2</sup> According to the complaint, Mr. Laursen called Mr. Sears and pretended to be a WRNX listener. Mr. Laursen asked Mr. Sears whether

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<sup>1</sup> 47 C.F.R. § 73.1206.

<sup>2</sup> See Letter from Thomas G. Davis, President, Western Mass Radio Company, to Magalie Roman Salas, Secretary, Federal Communications Commission, dated February 1, 2001 (“Western Complaint”).

WRNX(FM) radio personality and News Director Kelsey Flynn was “hot” and if she was a “lesbo.”<sup>3</sup> This conversation was broadcast on Station WLZX(FM). The complaint alleged that, while Station WLZX(FM) General Manager and Saga Vice-President Lawrence Goldberg later contacted Western President Thomas G. Davis to apologize for the incident, Western felt that a private apology was inadequate.<sup>4</sup> In a January 29, 2001, electronic message from “Tom Davis, Western Mass Radio” to “Sean Davey and Larry Goldberg, Saga Communications,” Western offered to settle the matter if Saga agreed to the following: (1) Mr. Laursen would record a message, written by Mr. Davis, apologizing for Mr. Laursen’s actions, which would be aired on Station WLZX(FM) five times in one day at times selected by Mr. Davis; (2) Mr. Laursen would not discuss the incident on the air at any time, other than during the recorded message of apology; (3) the apology would be signed and published in the *Daily Hampshire Gazette* and *Union News* three times in clear view; (4) Saga would donate \$1,000.00 to a charity of Kelsey Flynn’s choice, and the donation would be announced in the apology.<sup>5</sup> Western informed Saga that “[y]ou certainly have the right to decline, in which case we will place the issue in the hands of the FCC and allow them to take it to its ultimate resolution, whatever that may be.”<sup>6</sup>

3. After reviewing the complaint, we issued a letter of inquiry to Saga. We asked the licensee whether Station WLZX(FM) had recorded and later replayed such a conversation between a Station WLZX(FM) radio personality and a Station WRNX(FM) radio personality. We also asked whether Station WLZX(FM) personnel had provided the Station WRNX(FM) radio personality prior notification that Station WLZX(FM) intended to record and broadcast the conversation. Additionally, we asked Saga to provide any other pertinent details that would explain or clarify the matter.<sup>7</sup>

4. Before Saga responded to the LOI, on March 13, 2001, it filed a complaint against Western alleging extortion, blackmail and abuse of process, as well as an attempted unauthorized transfer of control.<sup>8</sup> Saga claimed that Western had attempted to blackmail Saga by demanding money and free airtime under a threat of informing the Commission of Saga’s violation of the Commission’s rules.<sup>9</sup> Saga also claimed that accommodating Western’s requests that it read a written apology over the air as well as not discuss the incident on-air amounted to an attempted unauthorized transfer of control, which would have required Saga to abdicate control of “basic operating policies” in violation of section 310(d) of the Communications Act of 1934 as amended (the “Act”).<sup>10</sup> Saga requests that the Commission initiate an enforcement proceeding and issue an order to show cause under Section 312 of the Act,<sup>11</sup> and that Saga be made a party to the revocation proceeding.<sup>12</sup>

5. In its March 15, 2001, LOI Response, Saga admitted that Station WLZX(FM) aired a recorded conversation between Mr. Laursen and Mr. Sears on January 25, 2001, without obtaining Mr.

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<sup>3</sup> *Id.* at 1.

<sup>4</sup> Western Complaint at 2.

<sup>5</sup> *Id.* at 2, Attachment.

<sup>6</sup> *Id.*

<sup>7</sup> See Letter from Charles W. Kelley, Chief, Investigations and Hearings Division, Enforcement Bureau, Federal Communications Commission, to Saga Communications of New England, Inc., dated February 14, 2001 (“LOI”).

<sup>8</sup> See Letter from Lawrence D. Goldberg, Vice President, Saga Communications of New England, Inc., to Magalie Roman Salas, Secretary, Federal Communications Commission, dated March 8, 2001. (“Saga Complaint”).

<sup>9</sup> See *id.* at 2-3.

<sup>10</sup> See *id.* at 3-4; 47 U.S.C. § 310(d).

<sup>11</sup> 47 U.S.C. § 312

<sup>12</sup> See Saga Complaint at 4.

Sears' permission,<sup>13</sup> but that it subsequently made Mr. Laursen aware of the requirements of section 73.1206 of the Commission's rules. Saga further stated that Mr. Laursen knew it was wrong to record his telephone conversation with Mr. Sears and broadcast it without Mr. Sears' permission, and that Mr. Laursen's actions were "conceived on the spur of the moment, without approval of any Saga management personnel."<sup>14</sup> Saga maintained that it suspended Mr. Laursen and his co-host for a week without pay after Saga had learned of the incident, and further provided its employees with a list of Commission rules, with which it required all employees to familiarize themselves. According to Saga, Western refused to accept its private apology for the incident, instead sending Saga the electronic mail message with what Saga refers to as "a list of non-negotiable demands."<sup>15</sup>

6. In its March 20, 2001, reply to the Saga Complaint and LOI Response,<sup>16</sup> Western stated that Saga admits, first, that Station WLZX(FM) recorded and broadcast the conversation between Mr. Laursen and Mr. Sears without notifying Mr. Sears that the conversation was being recorded and going to be broadcast and, second, that Saga and its employee, Mr. Laursen, knew the Commission's rules prohibited such conduct.<sup>17</sup> According to Western, Saga's Complaint was "so groundless, unwarranted in law or fact, and so flagrantly contrived ... as to warrant sanctions against [Saga] for frivolous pleading."<sup>18</sup> The electronic mail message, Western contended, "merely recite[d] the terms for a proposed settlement of Western Mass' grievance against Saga for what Saga [ ] admit[ed] was an indefensible violation of the Commission's rules."<sup>19</sup> Western maintained that to assert that its proposed settlement constituted an "attempted unauthorized transfer of control" was "hyperbolic and silly," and the settlement clearly stated that Saga had a right to decline Western's offer. Western stated that it was not an abuse of process, blackmail or extortion for a victim of wrongdoing to approach the perpetrator seeking restitution, and if refused, to pursue his remedies at law.<sup>20</sup> The broadcast licensee, according to Western, was ultimately responsible for exercising control and oversight over its employees and, therefore, was liable for its employee's violation of section 73.1206 of the Commission rules.<sup>21</sup>

### III. DISCUSSION

#### A. Saga's Apparent Violation of Section 73.1206 of the Commission's Rules

7. Under section 503(b)(1) of the Act,<sup>22</sup> any person who is determined by the Commission

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<sup>13</sup> See Letter from Lawrence D. Goldberg, Vice President, Saga Communications of New England, Inc., to Charles W. Kelley, Chief, Investigations and Hearings Division, Enforcement Bureau, Federal Communications Commission, dated March 16, 2001("LOI Response"); Declaration of Christopher Laursen dated March 14, 2001 provided therewith ("Laursen Declaration").

<sup>14</sup> *Id.* at 1; Laursen Declaration.

<sup>15</sup> *Id.* at 2; Laursen Declaration.

<sup>16</sup> See Letter from Erwin G. Krasnow, Verner, Liipfert, Bernhard, McPherson and Hand, to Charles W. Kelley, Chief, Investigations and Hearings Division, Enforcement Bureau, Federal Communications Commission, dated March 20, 2001 ("Western Reply").

<sup>17</sup> *Id.* at 1.

<sup>18</sup> *Id.* at 2.

<sup>19</sup> *Id.*

<sup>20</sup> *Id.* at 2-3.

<sup>21</sup> *Id.* at 3.

<sup>22</sup> 47 U.S.C. § 503(b)(1)(B); 47 C.F.R. § 1.80(a)(1); *see also* 47 U.S.C. § 503(b)(1)(D) (forfeitures for violation of 14 U.S.C. § 1464). Section 312(f)(1) of the Act defines willful as "the conscious and deliberate commission or omission of [any] act, irrespective of any intent to violate" the law. 47 U.S.C. § 312(f)(1). The legislative history to

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to have willfully or repeatedly failed to comply with any provision of the Act or any rule, regulation, or order issued by the Commission shall be liable to the United States for a monetary forfeiture penalty. In order to impose such a forfeiture penalty, the Commission must issue a notice of apparent liability, the notice must be received, and the person against whom the notice has been issued must have an opportunity to show, in writing, why no such forfeiture penalty should be imposed.<sup>23</sup> The Commission will then issue a forfeiture if it finds by a preponderance of the evidence that the person has violated the Act or a Commission rule.<sup>24</sup> As we set forth in greater detail below, we conclude under this standard that Saga is apparently liable for a forfeiture for its apparent willful violation of section 73.1206 of the Commission's rules.

8. Section 73.1206 of the Commission's rules provides, in pertinent part:

Before recording a telephone conversation for broadcast . . . a licensee shall inform any party to the call of the licensee's intention to broadcast the conversation, except where such party is aware, or may be presumed to be aware from the circumstances of the conversation, that it is being or likely will be broadcast. Such awareness is presumed to exist only when the other party to the call is associated with the station (such as [sic] employee or part-time reporter), or where the other party originates the call and it is obvious that it is in connection with a program in which the station customarily broadcasts telephone conversations.

Thus, section 73.1206 requires licensees to so notify parties to a telephone call *before* it initiates recordings for broadcast. The Commission has stated that "[t]he recording of such conversation with the intention of informing the other party later -- whether during the conversation or after it is completed but before it is broadcast -- does not comply with the Rule . . . ."<sup>25</sup> The rule reflects the Commission's longstanding belief that prior notification is essential to protect individuals' legitimate expectation of privacy, as well as to preserve their dignity by avoidance of nonconsensual broadcasts of their conversations.<sup>26</sup> Thus, the Commission has held that the prior notification requirement ensures the

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section 312(f)(1) of the Act clarifies that this definition of willful applies to both sections 312 and 503(b) of the Act, H.R. Rep. No. 97-765, 97<sup>th</sup> Cong. 2d Sess. 51 (1982), and the Commission has so interpreted the term in the section 503(b) context. *See, e.g., Application for Review of Southern California Broadcasting Co.*, Memorandum Opinion and Order, 6 FCC Rcd 4387, 4388 (1991) ("*Southern California Broadcasting Co.*"). The Commission may also assess a forfeiture for violations that are merely repeated, and not willful. *See, e.g., Callais Cablevision, Inc., Grand Isle, Louisiana*, Notice of Apparent Liability for Monetary Forfeiture, 16 FCC Rcd 1359 (2001) (issuing a Notice of Apparent Liability for, *inter alia*, a cable television operator's repeated signal leakage). "Repeated" merely means that the act was committed or omitted more than once, or lasts more than one day. *Southern California Broadcasting Co.*, 6 FCC Rcd at 4388, ¶ 5; *Callais Cablevision, Inc.*, 16 FCC Rcd at 1362, ¶ 9.

<sup>23</sup> 47 U.S.C. § 503(b); 47 C.F.R. § 1.80(f).

<sup>24</sup> *See, e.g., SBC Communications, Inc.*, Apparent Liability for Forfeiture, Forfeiture Order, 17 FCC Rcd 7589, 7591, ¶ 4 (2002) (forfeiture paid).

<sup>25</sup> *Station-Initiated Telephone Calls which Fail to Comply with Section 73.1206 of the Rules*, Public Notice, 35 FCC 2d 940, 941 (1972) ("1972 Public Notice").

<sup>26</sup> *See Amendment of Section 1206: Broadcast of Telephone Conversations*, 3 FCC Rcd 5461, 5463-64 (1988) ("1988 Order"); 1972 Public Notice, 35 FCC 2d at 941; *Amendment of Part 73 of the Commission's Rules and Regulations with Respect to the Broadcast of Telephone Conversations*, 23 FCC 2d 1, 2 (1970); *see also EZ Sacramento, Inc. and Infinity Broadcasting Corp. of Washington, D.C.*, 16 FCC Rcd 4958, 4958 (2002) (finding that prior notifications "effectively cease" when callers are put on hold, and that thus explicit notice must be given if stations plan to continue such broadcasts or record such conversations for later broadcasts); *Heftel Broadcasting-Contemporary, Inc.*, 52 FCC 2d 1005, 1006 (1975) (finding that "cash call" promotions that simultaneously

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protection of an individual's "right to answer the telephone without having [his or her] voice or statements transmitted to the public by a broadcast station" live or by recording for delayed airing.<sup>27</sup> Applying this reasoning, the Commission has defined "conversations" broadly, "to include *any* word or words spoken during the telephone call," and specifically has rejected arguments that "utterances made by parties called in answering the phone" are not subject to the rule's prior notification requirement.<sup>28</sup>

9. Based upon the information before us, it appears that, on January 25, 2001, Saga broadcast the conversation between Mr. Laursen and Mr. Sears, without providing Mr. Sears prior notice that Saga intended to record and later air the conversation, in apparent willful violation of section 73.1206 of the Commission's rules. In light of this apparent violation, we believe it appropriate that Saga be assessed a monetary forfeiture. The Commission's *Forfeiture Policy Statement* sets a base forfeiture amount of \$4,000.00 for the unauthorized broadcast of a telephone conversation<sup>29</sup> and provides that base forfeitures may be adjusted based upon consideration of the factors enumerated in section 503(b)(2)(D) of the Act<sup>30</sup> and 1.80(a)(4) of the Commission's rules,<sup>31</sup> which include "the nature, circumstances, extent, and gravity of the violation . . . and the degree of culpability, any history of prior offenses, ability to pay, and such other matters as justice may require."<sup>32</sup> Based upon the facts and circumstances presented here, in particular because this appears to be an isolated violation, we find the base forfeiture amount of Four Thousand Dollars (\$4,000.00) to be appropriate.

#### B. Saga's Complaint Against Western

10. The Commission has stated that "[a]buse of process is a broad concept that includes use of Commission processes to achieve a result that the process was not intended to achieve, or use of that process to subvert the purpose the process was intended to achieve."<sup>33</sup> In *Character Qualifications*, the Commission further defined "abuse of process" as "serious willful misconduct which directly threatens the integrity of the Commission's *licensing* processes."<sup>34</sup> Western's proposed settlement did not involve the Commission's licensing processes. To this extent, Saga's reliance on *Home Service Broadcasting Corp.* is misplaced.<sup>35</sup> More importantly, the purpose of this NAL is "to inform a licensee that [it] has

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broadcast, and award prizes based on, parties' responses in answering the telephone are subject to section 73.1206's prior notification requirement).

<sup>27</sup> 1988 Order, 3 FCC Rcd at 5463.

<sup>28</sup> *Hefel Broadcasting-Contemporary, Inc.*, 52 FCC 2d at 1006 (emphasis added).

<sup>29</sup> See *Commission's Forfeiture Policy Statement and Amendment of Section 1.80 of the Rules to Incorporate the Forfeiture Guidelines*, 12 FCC Rcd 17087, 17113 (1997), *recon. denied* 15 FCC Rcd 303 (1999) ("*Forfeiture Policy Statement*").

<sup>30</sup> 47 U.S.C. § 503(b)(2)(D).

<sup>31</sup> 47 C.F.R. § 1.80(a)(4).

<sup>32</sup> *Forfeiture Policy Statement*, 12 FCC Rcd at 17100-01.

<sup>33</sup> *Ronald Brasher*, 15 FCC Rcd 16326, 16331 (2000) (citing *Broadcast Renewal Applicants*, 3 FCC Rcd 5179, 5199 n.2 (1988)).

<sup>34</sup> *Policy Regarding Character Qualifications in Broadcast Licensing*, 102 FCC 2d 1179, 1211 (1986) (emphasis added).

<sup>35</sup> *Saga Complaint* at 3, citing *Home Service Broadcasting Corp.*, 24 FCC 2d 192, 193 (Rev. Bd. 1970). See, also, *James Sliger*, 70 FCC 2d 1565 (Rev. Bd. 1969) (abuse of process in comparative renewal proceeding); *K.O. Communications, Inc.*, 13 FCC Rcd 12765 (WTB 1998) (abuse of process when "strike pleading" filed).

failed to abide by the provisions of the Commission's rules."<sup>36</sup> By filing its complaint, Western contributed to the Commission's enforcement scheme.<sup>37</sup>

11. Western's actions further do not constitute blackmail.<sup>38</sup> Even were we to have jurisdiction to adjudicate this allegation, the facts indicate that Western simply sought a private resolution of its grievance. The record does not indicate that Western threatened to file a complaint for its own benefit, monetary or otherwise. With respect to Western's request that Saga contribute to a charity of Kelsey Flynn's choice, Western appears only to have sought redress for the damage done by statements potentially impugning its employee's sexual orientation.

12. Saga's claim that Western attempted to acquire control of Station WLZX(FM) is likewise without merit. In assessing whether an unauthorized transfer of control has occurred, the Commission looks at whether a licensee continues to have ultimate control over a station's programming, personnel, and finances.<sup>39</sup> Proposing that Saga broadcast a public apology five times on one day, and that Saga take steps to prevent its employee from further insulting Western's radio personality does not constitute an attempt to control the "basic operating policies of the station," as Saga maintains.<sup>40</sup>

13. The Commission does not recognize a formal right to seek revocation of a license,<sup>41</sup> but rather treats such requests as informal requests for action pursuant to section 1.41 of the Commission's rules.<sup>42</sup> Saga claims that Western's actions "evidence[] a lack of fitness to be a Commission licensee" and therefore the Commission should initiate a proceeding requiring Western to show cause why its license for WRNX(FM) should not be revoked.<sup>43</sup> Because we reject Saga's claims, Saga's request to initiate a revocation proceeding is dismissed as moot.

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<sup>36</sup> *Duhamel Broadcasting Enterprises*, 61 FCC 2d 365, 366 (1976).

<sup>37</sup> Western's settlement proposal did not undermine the Commission's enforcement scheme because filing a complaint is voluntary, and only one method of initiating an enforcement proceeding.

<sup>38</sup> Saga cites to 18 U.S.C. § 873, which makes it a criminal offense to demand any money or other valuable thing under a threat of informing, or as consideration for not informing, against any violation of federal law.

<sup>39</sup> *See, e.g., Radio Moultrie, Inc.*, 17 FCC Rcd 24304 (2002).

<sup>40</sup> *See id.* at 24306.

<sup>41</sup> *See, e.g., K.O. Communications, Inc.*, 13 FCC Rcd at 12775.

<sup>42</sup> *See id.*; 47 C.F.R. § 1.41.

<sup>43</sup> *See* Saga Complaint at 4.

#### IV. ORDERING CLAUSES

14. Accordingly, IT IS ORDERED THAT, pursuant to section 503(b) of the Act,<sup>44</sup> and sections 0.111, 0.311 and 1.80 of the Commission's rules,<sup>45</sup> Saga Communications of New England, Inc., licensee of Station WLZX(FM), Northampton, Massachusetts, is hereby NOTIFIED of its APPARENT LIABILITY FOR A FORFEITURE in the amount of Four Thousand Dollars (\$4,000) for apparently willfully violating section 73.1206 of the Commission's rules on January 25, 2001.<sup>46</sup>

15. IT IS FURTHER ORDERED THAT, pursuant to Section 1.80 of the rules,<sup>47</sup> within thirty (30) days of this NOTICE OF APPARENT LIABILITY, Saga Communications of New England, Inc. SHALL PAY the full amount of the proposed forfeiture or SHALL FILE a written statement seeking reduction or cancellation of the proposed forfeiture. Payment of the forfeiture may be made by mailing a check or similar instrument, payable to the order of the Federal Communications Commission, to Forfeiture Collection Section, Finance Branch, Federal Communications Commission, P.O. Box 73482, Chicago, Illinois 60673-7482. The payment must include the FCC Registration Number (FRN) referenced above and also must note the NAL/Acct. No. referenced above.

16. Requests for payment of the full amount of this Notice of Apparent Liability under an installment plan should be sent to: Chief, Revenue and Receivables Operations Group, 445 12th Street, S.W., Washington, D.C. 20554.<sup>48</sup>

17. Accordingly, IT IS ORDERED THAT the complaint of Western Mass Radio Company filed against Saga Communications of New England, Inc., licensee of Station WLZX(FM), Northampton, Massachusetts, is GRANTED.

18. IT IS FURTHER ORDERED THAT the complaint of Saga Communications of New England, Inc., alleging abuse of process, blackmail, and attempted acquisition of control of WLZX(FM) by Western Mass Radio Company, licensee of Station WRNX(FM), is DENIED for the reasons set forth herein, and the request for revocation of Station WRNX(FM)'s license is DISMISSED.

19. Under the Small Business Paperwork Relief Act of 2002, Pub L. No. 107-198, 116 Stat. 729 (June 28, 2002), the FCC is engaged in a two-year tracking process regarding the size of entities involved in forfeitures. If you qualify as a small entity and if you wish to be treated as a small entity for tracking purposes, please so certify to us within thirty (30) days of this NAL, either in your response to the NAL or in a separate filing to be sent to the Investigations and Hearings Division. Your certification should indicate whether you, including your parent entity and its subsidiaries, meet one of the definitions set forth in the list provided by the FCC's Office of Communications Business Opportunities (OCBO) set forth in Attachment A of this Notice of Apparent Liability. This information will be used for tracking purposes only. Your response or failure to respond to this question will have no effect on your rights and responsibilities pursuant to Section 503(b) of the Communications Act. If you have questions regarding any of the information contained in Attachment A, please contact OCBO at (202) 418-0990.

20. IT IS FURTHER ORDERED THAT a copy of this NOTICE OF APPARENT LIABILITY shall be sent by Certified Mail - Return Receipt Requested to Lawrence D. Goldberg, Vice President, Saga Communications of New England, Inc, 15 Hampton Avenue, Northampton,

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<sup>44</sup> 47 U.S.C. § 503(b).

<sup>45</sup> 47 C.F.R. § 0.111, 0.311 and 1.80.

<sup>46</sup> 47 C.F.R. § 73.1206

<sup>47</sup> 47 C.F.R. § 1.80.

<sup>48</sup> 47 C.F.R. § 1.1914.

Massachusetts 01060; its counsel, Gary S. Smithwick, Esquire, Smithwick & Belendiuk, P.C., 5028 Wisconsin Avenue, N.W., Suite 301, Washington, D.C. 20016; Thomas G. Davis, President, Western Mass Radio Company, 98 Lower Westfield Road, Holyoke, Massachusetts, 01040; and its counsel, Erwin G. Krasnow, Esquire, Garvey Schubert Barer, Fifth Floor, 1000 Potomac Street, N.W., Washington, D.C. 20007-3501.

FEDERAL COMMUNICATIONS COMMISSION

David H. Solomon  
Chief, Enforcement Bureau



## Attachment A

### FCC List of Small Entities

As described below, a “small entity” may be a small organization, a small governmental jurisdiction, or a small business.

(1) Small Organization	
Any not-for-profit enterprise that is independently owned and operated and is not dominant in its field.	
(2) Small Governmental Jurisdiction	
Governments of cities, counties, towns, townships, villages, school districts, or special districts, with a population of less than fifty thousand.	
(3) Small Business	
Any business concern that is independently owned and operated and is not dominant in its field, <i>and</i> meets the pertinent size criterion described below.	
Industry Type	Description of Small Business Size Standards
<i>Cable Services or Systems</i>	
Cable Systems	Special Size Standard – Small Cable Company has 400,000 Subscribers Nationwide or Fewer
Cable and Other Program Distribution	\$12.5 Million in Annual Receipts or Less
Open Video Systems	
<i>Common Carrier Services and Related Entities</i>	
Wireline Carriers and Service providers	1,500 Employees or Fewer
Local Exchange Carriers, Competitive Access Providers, Interexchange Carriers, Operator Service Providers, Payphone Providers, and Resellers	

**Note:** With the exception of Cable Systems, all size standards are expressed in either millions of dollars or number of employees and are generally the average annual receipts or the average employment of a firm. Directions for calculating average annual receipts and average employment of a firm can be found in 13 CFR 121.104 and 13 CFR 121.106, respectively.

International Services	
International Broadcast Stations	\$12.5 Million in Annual Receipts or Less
International Public Fixed Radio (Public and Control Stations)	
Fixed Satellite Transmit/Receive Earth Stations	
Fixed Satellite Very Small Aperture Terminal Systems	
Mobile Satellite Earth Stations	
Radio Determination Satellite Earth Stations	
Geostationary Space Stations	
Non-Geostationary Space Stations	
Direct Broadcast Satellites	
Home Satellite Dish Service	
Mass Media Services	
Television Services	\$12 Million in Annual Receipts or Less
Low Power Television Services and Television Translator Stations	
TV Auxiliary, Special Broadcast and Other Program Distribution Services	
Radio Services	\$6 Million in Annual Receipts or Less
Radio Auxiliary, Special Broadcast and Other Program Distribution Services	
Multipoint Distribution Service	Auction Special Size Standard – <b>Small Business</b> is less than \$40M in annual gross revenues for three preceding years
Wireless and Commercial Mobile Services	
Cellular Licensees	1,500 Employees or Fewer
220 MHz Radio Service – Phase I Licensees	
220 MHz Radio Service – Phase II Licensees	Auction special size standard - <b>Small Business</b> is average gross revenues of \$15M or less for the preceding three years (includes affiliates and controlling principals) <b>Very Small Business</b> is average gross revenues of \$3M or less for the preceding three years (includes affiliates and controlling principals)
700 MHz Guard Band Licensees	
Private and Common Carrier Paging	1,500 Employees or Fewer
Broadband Personal Communications Services (Blocks A, B, D, and E)	
Broadband Personal Communications Services (Block C)	Auction special size standard - <b>Small Business</b> is \$40M or less in annual gross revenues for three previous calendar years <b>Very Small Business</b> is average gross revenues of \$15M or less for the preceding three calendar years (includes affiliates and persons or entities that hold interest in such entity and their affiliates)
Broadband Personal Communications Services (Block F)	
Narrowband Personal Communications Services	
	1,500 Employees or Fewer
Rural Radiotelephone Service	
Air-Ground Radiotelephone Service	
800 MHz Specialized Mobile Radio	Auction special size standard -

900 MHz Specialized Mobile Radio	<b>Small Business</b> is \$15M or less average annual gross revenues for three preceding calendar years
Private Land Mobile Radio	1,500 Employees or Fewer
Amateur Radio Service	N/A
Aviation and Marine Radio Service	1,500 Employees or Fewer
Fixed Microwave Services	
Public Safety Radio Services	<b>Small Business</b> is 1,500 employees or less <b>Small Government Entities</b> has population of less than 50,000 persons
Wireless Telephony and Paging and Messaging	1,500 Employees or Fewer
Personal Radio Services	N/A
Offshore Radiotelephone Service	1,500 Employees or Fewer
Wireless Communications Services	<b>Small Business</b> is \$40M or less average annual gross revenues for three preceding years <b>Very Small Business</b> is average gross revenues of \$15M or less for the preceding three years
39 GHz Service	
Multipoint Distribution Service	Auction special size standard (1996) – <b>Small Business</b> is \$40M or less average annual gross revenues for three preceding calendar years Prior to Auction – <b>Small Business</b> has annual revenue of \$12.5M or less
Multichannel Multipoint Distribution Service	\$12.5 Million in Annual Receipts or Less
Instructional Television Fixed Service	
Local Multipoint Distribution Service	Auction special size standard (1998) – <b>Small Business</b> is \$40M or less average annual gross revenues for three preceding years <b>Very Small Business</b> is average gross revenues of \$15M or less for the preceding three years
218-219 MHz Service	First Auction special size standard (1994) – <b>Small Business</b> is an entity that, together with its affiliates, has no more than a \$6M net worth and, after federal income taxes (excluding carryover losses) has no more than \$2M in annual profits each year for the previous two years New Standard – <b>Small Business</b> is average gross revenues of \$15M or less for the preceding three years (includes affiliates and persons or entities that hold interest in such entity and their affiliates) <b>Very Small Business</b> is average gross revenues of \$3M or less for the preceding three years (includes affiliates and persons or entities that hold interest in such entity and their affiliates)
Satellite Master Antenna Television Systems	\$12.5 Million in Annual Receipts or Less
24 GHz – Incumbent Licensees	1,500 Employees or Fewer
24 GHz – Future Licensees	<b>Small Business</b> is average gross revenues of \$15M or less for the preceding three years (includes affiliates and persons or entities that hold interest in such entity and their affiliates) <b>Very Small Business</b> is average gross revenues of \$3M or less for the preceding three years (includes affiliates and persons or entities that hold interest in such entity and their affiliates)
<b>Miscellaneous</b>	
On-Line Information Services	\$18 Million in Annual Receipts or Less
Radio and Television Broadcasting and Wireless Communications Equipment	

Manufacturers	750 Employees or Fewer
Audio and Video Equipment Manufacturers	
Telephone Apparatus Manufacturers (Except Cellular)	1,000 Employees or Fewer
Medical Implant Device Manufacturers	500 Employees or Fewer
Hospitals	\$29 Million in Annual Receipts or Less
Nursing Homes	\$11.5 Million in Annual Receipts or Less
Hotels and Motels	\$6 Million in Annual Receipts or Less
Tower Owners	(See Lessee's Type of Business)