

Before the
Federal Communications Commission
Washington, D.C. 20554

In the Matter of)
)
TeleRadio AB) File No. EB-04-SE-252
)
)

MEMORANDUM OPINION AND ORDER

Adopted: July 18, 2005

Released: July 20, 2005

By the Chief, Spectrum Enforcement Division, Enforcement Bureau:

I. INTRODUCTION

1. In this *Memorandum Opinion and Order*, we admonish TeleRadio AB (“TeleRadio”) for importing and marketing in the United States non-compliant radiofrequency devices in violation of Section 302(b) of the Communications Act of 1934, as amended (“Act”),¹ and Sections 2.803(a) and 15.231(a) of the Commission’s Rules (“Rules”).²

II. BACKGROUND

2. In 2004, the FCC’s Office of Engineering and Technology (“OET”) Laboratory requested four TeleRadio remote control transmitters, designed for the remote control of cranes and hoists in industrial use, for compliance testing as part of its post-grant sampling program. On June 21, 2004, the OET Lab tested the transmitters and found that one of the devices, the Type ONF860-TX transmitter,³ did not comply with the periodic operation limit set forth in Section 15.231(a) of the Rules, which requires a manually operated transmitter to employ a switch that will automatically cease transmission within five seconds. The OET Lab determined that the Type ONF860-TX transmitter failed to cease transmitting within the five second limit, and continued transmitting for approximately 118 seconds after release of the activation button.⁴

3. On August 27, 2004, the Spectrum Enforcement Division of the Enforcement Bureau issued a letter of inquiry (“LOI”) to TeleRadio, seeking information and documents concerning compliance of the Type ONF860-TX transmitter with the periodic operation limits set forth in Section 15.231(a) of the Rules.⁵ In its response, dated September 6, 2004, TeleRadio stated that it began

¹ 47 U.S.C. § 302a(b).

² 47 C.F.R. §§ 2.803(a).

³ On July 18, 2003, TeleRadio was issued a grant of certification for the Type ONF860-TX transmitter under FCC Identification Number ONF860-TX.

⁴ The OET Lab found the other three transmitters in compliance with the rules.

⁵ See Letter from Joseph P. Casey, Chief, Spectrum Enforcement Division, Enforcement Bureau, Federal Communications Commission, to Douglas K. Lansbery, Technical Service Manager, TeleRadio Company LLC (August 27, 2004). The LOI was addressed to TeleRadio Company LLC, TeleRadio AB’s U.S. affiliate, which was

importing and marketing the Type ONF860-TX transmitter in the United States on August 1, 2003 and that it had sold 22 units of the device to date. TeleRadio stated that it had discontinued importation of the device on February 1, 2004. TeleRadio asserted that it believed that it was in compliance with Section 15.231 and provided a copy of the test report submitted with its equipment certification application in support of this assertion.

4. On November 4, 2004, the Spectrum Enforcement Division issued a follow-up LOI to TeleRadio.⁶ In its response, dated November 15, 2004, TeleRadio asserted that the device turned off within five seconds of pressing the “stop button,” which TeleRadio believed complied with requirements of Section 15.231.⁷

III. DISCUSSION

5. Section 302(b) of the Act provides that “[n]o person shall manufacture, import, sell, offer for sale, or ship devices or home electronic equipment and systems, or use devices, which fail to comply with regulations promulgated pursuant to this section.” Section 2.803(a)(2) of the Commission’s implementing regulations provides that:

Except as provided elsewhere in this section, no person shall sell or lease, or offer for sale or lease (including *advertising* for sale or lease), or import, ship, distribute for the purpose of selling or leasing or offering for sale or lease, any radio frequency device unless ... [i]n the case of a device subject to certification, such device has been identified and labeled as required by § 2.925 and other relevant sections in this chapter.

Section 15.231 of the Rules establishes periodic operation limits for radiofrequency devices, such as TeleRadio’s Type ONF860-TX transmitter, which operate “in the band 40.66-40.70 MHz and above 70 MHz.” Section 15.231(a)(1) of the Rules specifically requires that a manually operated transmitter employ a switch that “will automatically deactivate the transmitter within not more than 5 seconds of being released.”

6. TeleRadio imported and marketed the Type ONF860-TX remote control transmitters in the United States between August 1, 2003 and February 1, 2004, and sold 22 units during this period. The OET Laboratory’s tests showed that the device failed to cease transmitting within the five second limit, and in fact continued transmitting for approximately 118 seconds after release of the activation button. While TeleRadio asserted that the device turned off within five seconds of pressing the “stop button,” a device that requires actively pressing a stop button to cease transmitting does not comply with the five second limit of Section 15.231(a). Accordingly, we conclude that TeleRadio imported and marketed non-compliant radiofrequency devices in violation of Section 302(b) of the Act and Sections 2.803(a) and 15.231(a) of the Rules.

7. Although we believe that a monetary forfeiture would be warranted for this violation, we note that TeleRadio has not imported or marketed the Type ONF860-TX transmitter in the United States since February 1, 2004. The statute of limitations for issuing a Notice of Apparent Liability in this case

marketing the device in the United States. In its response to the LOI, TeleRadio AB stated that TeleRadio Company LLC was a “dormant” corporation.

⁶ See Letter from Kathryn S. Berthot, Deputy Chief, Spectrum Enforcement Division, Enforcement Bureau, Federal Communications Commission, to Martin Osterman, Product Manager, TeleRadio AB (November 4, 2004).

⁷ See Letter from Martin Osterman, Product Manager, TeleRadio AB, to Yasin Ozer, Spectrum Enforcement Division, Enforcement Bureau, Federal Communications Commission (November 15, 2004).

is one year from the date of violation.⁸ Accordingly, based upon our review of the facts and circumstances in this case, and because we are barred by the one-year statute of limitations from issuing a Notice of Apparent Liability, we admonish TeleRadio for importing and marketing non-compliant equipment in violation of Section 302(b) of the Act and Sections 2.803(a) and 15.231(a) of the Rules.

IV. ORDERING CLAUSES

8. Accordingly, **IT IS ORDERED** that TeleRadio AB **IS ADMONISHED** for importing and marketing non-compliant radiofrequency devices in violation of Section 302(b) of the Act and Sections 2.803(a) and 15.231(a) of the Rules.

9. **IT IS FURTHER ORDERED** that copies of this *Memorandum Opinion and Order* shall be sent by Certified Mail, Return Receipt Requested, to TeleRadio AB, Datavagan 21, S-436 32 Askim (Goteberg), Sweden.

FEDERAL COMMUNICATIONS COMMISSION

Joseph P. Casey
Chief, Spectrum Enforcement Division
Enforcement Bureau

⁸ See 47 U.S.C. § 503(b)(6); 47 C.F.R. § 1.80(c)(3).