



FEDERAL COMMUNICATIONS COMMISSION  
WASHINGTON, D.C. 20554

July 28, 2009

**VIA CERTIFIED MAIL - RETURN RECEIPT REQUESTED**

Mark Cleveland  
President  
Hobby Lobby International, Inc.  
5614 Franklin Pike Cir.  
Brentwood, TN 37027-4324

Re: File No. EB-08-SE-695

Dear Mr. Cleveland:

This is an official **CITATION**, issued to Hobby Lobby International, Inc. ("HLI") pursuant to Section 503(b)(5) of the Communications Act of 1934, as amended ("Act"), 47 U.S.C. § 503(b)(5), for marketing non-compliant radio frequency devices in the United States in violation of Section 302(b) of the Act, 47 U.S.C. § 302a(b), and Sections 2.803 and 15.209 of the Commission's Rules ("Rules"), 47 C.F.R. §§ 2.803 and 15.209, and importing radio frequency devices without filing FCC Form 740 (or the electronic equivalent) with the United States Customs and Border Patrol in violation of Section 1.1203 of the Rules, 47 C.F.R. § 1.1203. As explained below, future violations of the Commission's Rules in this regard may subject your company to monetary forfeitures.

By letter of inquiry ("LOI") dated March 5, 2009, the Spectrum Enforcement Division of the Commission's Enforcement Bureau initiated an investigation into whether HLI is marketing in the United States an unauthorized radio frequency device, specifically, the Pilot View FPV 2400 video transmitter.<sup>1</sup> At the time of that letter, we observed on your website, [www.hobby-lobby.com](http://www.hobby-lobby.com), your marketing of the Pilot View FPV 2400 video transmitter.

In your May 7, 2009, response to the LOI,<sup>2</sup> you state that you began marketing the Pilot View FPV 2400 video transmitter on May 12, 2008 and have sold 109 units of the device in the United States. You indicate that the manufacturer of the transmitter, Intelligent Flight, an Australian company, represented to HLI that the device was FCC compliant. You also indicate that HLI imported the transmitters, that HLI did not file any FCC Form 740s for the imported units, and that the last date that a transmitter was received was November 17, 2008, which is around the time that HLI's contact at Intelligent Flight stopped responding to HLI's requests for further information concerning the device. You indicate that HLI sent a unit to a test lab, apparently prior to receipt of the Division's LOI. After receiving the LOI, HLI contacted the test lab to inquire about the test results and learned, for the first time, that the device is not FCC compliant. You provide a copy of the test results, which indicate that the

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<sup>1</sup> See Letter from Kathryn S. Berthot, Chief, Spectrum Enforcement Division, Enforcement Bureau, Federal Communications Commission, to Steve Fuqua, Vice President, Hobby Lobby International (March 5, 2009).

<sup>2</sup> See Declaration of Thomas J. Graves (May 7, 2009) ("LOI Response"). Mr. Graves indicates that he was President of HLI through February 17, 2009, and is currently a consultant retained by HLI.

device substantially exceeds FCC radiated emission limits.<sup>3</sup> You state that Hobby Lobby discontinued selling this device as soon as it became aware that the device was not FCC compliant.

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)(1) of the Commission’s implementing regulations provides that:

no person shall sell or lease, or offer for sale or lease (including advertising for sale or lease), or import, ship, or 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 authorized by the Commission in accordance with the rules in this chapter and is properly identified and labeled as required by § 2.925 and other relevant sections in this chapter.

Pursuant to Section 15.201(b) of the Rules, 47 C.F.R. § 15.201(b), intentional radiators,<sup>4</sup> such as the Pilot View FPV 2400, must be authorized in accordance with the Commission’s certification procedures prior to the initiation of marketing<sup>5</sup> in the United States. Moreover, intentional radiators must comply with all applicable FCC technical standards, including the radiated emission limits set forth in Section 15.209 of the Rules.<sup>6</sup> HLI admits that it marketed the Pilot View FPV 2400 video transmitter in the United States and that this device does not comply with the FCC’s radiated emission limits.

Under Section 2.1203 of the Rules,<sup>7</sup> no radio frequency device may be imported into the Customs territory of the United States unless the importer declares that the device meets one of the conditions for entry set forth in Section 2.1204 of the Rules.<sup>8</sup> Pursuant to Section 2.1205, this declaration must be filed electronically, where electronic filing with Customs is available, or using FCC Form 740, where electronic filing with Customs has not been implemented.<sup>9</sup> HLI admits that it imported units of the Pilot View FPV 2400 without making the required import declaration either electronically or on FCC Form 740.

Accordingly, it appears that HLI violated Section 302(b) of the Act and Sections 2.803 and 15.209 of the Rules by marketing in the United States the Pilot View FPV 2400 transmitter. It also appears that HLI violated Section 2.1203 of the Rules by importing the Pilot View FPV 2400 transmitter without making the required import declaration.

**If, after receipt of this citation, you violate the Communications Act or the Commission’s Rules in any manner described herein, the Commission may impose monetary forfeitures not to exceed \$16,000 for each such violation or each day of a continuing violation.**<sup>10</sup>

<sup>3</sup> See 47 C.F.R. § 15.209. HLI does not indicate in its LOI response whether the Pilot View FPV 2400 video transmitter ever received a grant of equipment certification or is labeled with an FCC Identification number.

<sup>4</sup> Section 15.3(o) of the Rules defines an “intentional radiator” as a “device that intentionally generates and emits radio frequency energy by radiation or induction.” 47 C.F.R. § 15.3(o).

<sup>5</sup> Section 2.803(e)(4) of the Rules defines “marketing” as the “sale or lease, or offering to sale or lease, including advertising for sale or lease, or importation, shipment or distribution for the purpose of selling or leasing or offering for sale or lease.” 47 C.F.R. § 2.803(e)(4).

<sup>6</sup> See 47 C.F.R. § 15.209.

<sup>7</sup> See 47 C.F.R. § 2.1203.

<sup>8</sup> See 47 C.F.R. § 2.1204.

<sup>9</sup> See 47 C.F.R. § 2.1205.

<sup>10</sup> See 47 C.F.R. § 1.80(b)(3).

You may respond to this citation within 30 days from the date of this letter either through (1) a personal interview at the Commission's Field Office nearest to your place of business, or (2) a written statement. Your response should specify the actions that you are taking to ensure that you do not violate the Commission's Rules governing the marketing and importing of radio frequency equipment in the future.

The nearest Commission field office is the Atlanta Office, in Duluth, Georgia. Please call Samantha Peoples at 202-418-1101 if you wish to schedule a personal interview. You should schedule any interview to take place within 30 days of the date of this letter. You should send any written statement within 30 days of the date of this letter to:

Kathryn Berthot  
Chief, Spectrum Enforcement Division  
Enforcement Bureau  
Federal Communications Commission  
445-12<sup>th</sup> Street, S.W., Rm. 3-C366  
Washington, D.C. 20554

Under the Privacy Act of 1974, 5 U.S.C. § 552(a)(e)(3), we are informing you that the Commission's staff will use all relevant material information before it, including information that you disclose in your interview or written statement, to determine what, if any, enforcement action is required to ensure your compliance with the Communications Act and the Commission's Rules.

The knowing and willful making of any false statement, or the concealment of any material fact, in reply to this citation is punishable by fine or imprisonment under 18 U.S.C. § 1001.

Thank you in advance for your anticipated cooperation.

Sincerely,

Kathryn Berthot  
Chief, Spectrum Enforcement Division  
Enforcement Bureau  
Federal Communications Commission