



FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON, D.C. 20554

August 10, 2009

VIA CERTIFIED MAIL - RETURN RECEIPT REQUESTED

Wade Hirsch, President
Future Hobbies
1920 Adelaide Way
San Jose, CA 95124-5548

Re: File No. EB-08-SE-692

Dear Mr. Hirsch:

This is an official **CITATION** issued to Future Hobbies pursuant to Section 503(b)(5) of the Communications Act of 1934, as amended ("Act"),¹ for marketing unauthorized radio frequency devices in the United States that operate on restricted frequencies in violation of Section 302(b) of the Act,² and Sections 2.803 and 15.205(a) of the Commission's Rules ("Rules").³ As explained below, future violations of the Commission's Rules in this regard may subject your company to monetary forfeitures.

In response to a complaint alleging that Future Hobbies was marketing unauthorized audio/video transmitters that are capable of operating on restricted frequencies in the 900 MHz and 2.4 GHz frequency bands, the Spectrum Enforcement Division of the Commission's Enforcement Bureau ("Division") issued a letter of inquiry ("LOI") to Future Hobbies on February 25, 2009.⁴ At the time of that letter, we observed on your website, www.futurehobbies.com, your marketing of the following radio frequency devices: the FHV 2.4 GHz 1000 mW audio/video transmitter and the FHV 900 MHz 500 mW audio/video transmitter.

In your April 8, 2009, response to the LOI,⁵ you state that you began marketing these devices on January 2, 2007, and have sold 110 units of the FHV 2.4 GHz 1000 mW audio/video transmitter and 63 units of the FHV 900 MHz 500 mW audio/video transmitter. You indicate that you do not manufacture the devices, and that the devices are imported from a manufacturer in Taiwan.

¹ 47 U.S.C. § 503(b)(5).

² 47 U.S.C. § 302a(b).

³ 47 C.F.R. §§2.803 and 15.205(a).

⁴ See Letter from Kathryn S. Berthot, Chief, Spectrum Enforcement Division, Enforcement Bureau, Federal Communications Commission to Wade Hirsch, President, Future Hobbies (February 25, 2009).

⁵ See Letter from Wade Hirsch, President, Future Hobbies to Samantha Peoples, Spectrum Enforcement Division, Enforcement Bureau, Federal Communications Commission (April 8, 2009) ("LOI Response").

You state that you began importing the FHV 2.4 GHz 1000 mW device on October 11, 2006, and the FHV 900 MHz 500 mW device on September 5, 2007. You state that Future Hobbies discontinued importation of the 900 MHz device in December 2008, and that you last imported the 2.4 GHz device on April 5, 2009, though the devices imported on that date are not being marketed in the United States. You state in your LOI Response that you have filed FCC Form 740 with the United States Customs and Border Patrol for some, but not all, of the imported devices.

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 Rules provides in pertinent part that:

[N]o 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....⁶

Additionally, Section 2.803(g) of the Rules provides in pertinent part that:

[R]adio frequency devices that could not be authorized or legally operated under the current rules ... shall not be operated, advertised, displayed, offered for sale or lease, sold or leased, or otherwise marketed absent a license issued under part 5 of this chapter or a special temporary authorization issued by the Commission.⁷

Intentional radiators,⁸ such as audio/video transmitters, are generally required by Section 15.201 of the Rules,⁹ to be approved through the equipment certification¹⁰ procedures described in Sections 2.1031 – 2.1060 of the Rules¹¹ prior to marketing¹² within the United States.

In your LOI response, you admit that the two devices operate within restricted frequency bands listed in Section 15.205(a) of the Rules.¹³ Specifically, the 2.4 GHz device is capable of operating on 2370 MHz, 2390 MHz, and 2490 MHz, and the 900 MHz device is capable of operating on 980 MHz,

⁶ 47 C.F.R. § 2.803(a)(1).

⁷ 47 C.F.R. § 2.803(g).

⁸ An intentional radiator is “[a] device that intentionally generates and emits radio frequency energy by radiation or induction.” 47 C.F.R. § 15.3(o).

⁹ 47 C.F.R. § 15.201.

¹⁰ A certification is an equipment authorization issued by the Commission, based on representations and test data submitted by the applicant. *See* 47 C.F.R. § 2.907(a).

¹¹ 47 C.F.R. §§ 2.1031 – 2.1060.

¹² 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).

¹³ Section 15.205(a) allows intentional radiators to transmit only spurious emissions in the restricted frequency bands. 47 C.F.R. § 2.1 defines spurious emissions as “[e]missions on a frequency or frequencies which are outside the necessary bandwidth and the level of which may be reduced without affecting the corresponding transmission of information. Spurious emissions include harmonic emissions, parasitic emissions, intermodulation products and frequency conversion products, but exclude out-of-band emissions.”

1010 MHz, and 1040 MHz. Because these devices are capable of operation on restricted frequencies listed in Section 15.205(a) of the Rules, the devices cannot comply with the FCC's technical standards and therefore cannot be certified or marketed within the United States.

Accordingly, it appears that Future Hobbies violated Section 302(b) of the Act and Sections 2.803 and 15.205(a) of the Rules by marketing in the United States the two transmitters listed above.

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.¹⁴

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 of radio frequency equipment in the future.

The nearest Commission field office is the San Francisco Office, in Pleasanton, California. 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
445-12th Street, S.W., Rm. 3-C366
Washington, D.C. 20554

Under the Privacy Act of 1974,¹⁵ 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.¹⁶

Thank you in advance for your anticipated cooperation.

Sincerely,

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

¹⁴ See 47 C.F.R. § 1.80(b)(3).

¹⁵ See 5 U.S.C. § 552(a)(e)(3).

¹⁶ See 18 U.S.C. § 1001.