



FEDERAL COMMUNICATIONS COMMISSION  
WASHINGTON, D.C. 20554

[released September 11, 2009]  
September 2, 2009

**VIA CERTIFIED MAIL - RETURN RECEIPT REQUESTED**  
**AND FACSIMILE AT (603) 736-0353**

Mr. Eric D. Hoppe  
Progressive Concepts  
305 South Bartlett Road  
Streamwood, IL 60107

Re: File No. EB-08-SE-095

Dear Mr. Hoppe:

This is an official **CITATION**, issued pursuant to Section 503(b)(5) of the Communications Act of 1934, as amended (“Act”),<sup>1</sup> to Progressive Concepts (“Progressive”) for marketing in the United States unauthorized external radio frequency (“RF”) amplifiers in violation of Section 302(b) of the Act,<sup>2</sup> and Section 2.815(b) of the Commission’s Rules (“Rules”).<sup>3</sup> As explained below, future violations of the Commission’s Rules in this regard may subject your company to monetary forfeitures.

In February 2008, the Enforcement Bureau received a complaint alleging possible sale of unauthorized equipment by Progressive in violation of Section 302(b) of the Act. On March 7, 2008, staff from the Enforcement Bureau’s Spectrum Enforcement Division (“Division”) visited the Progressive web site at [www.progressiveconcepts.com](http://www.progressiveconcepts.com). The staff observed that Progressive was marketing<sup>4</sup> numerous RF devices including external RF amplifiers. As part of the investigation, the Division sent a letter of inquiry (“LOI”) to Progressive on May 13, 2008.<sup>5</sup>

In your July 3, 2008 response to the LOI,<sup>6</sup> you admit that Progressive marketed thirteen (13) models of external RF amplifiers, all which operated in the 88 – 108 MHz frequency band, that had not been certified; specifically, four models manufactured by PTEK (FM2000, FM3000, FM4000, and FM 5000), eight models manufactured by Broadcast Warehouse Limited (IKWA, 525K, 1040K, 1150K,

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<sup>1</sup> 47 U.S.C. § 503(b)(5).

<sup>2</sup> 47 U.S.C. § 302a(b).

<sup>3</sup> 47 C.F.R. § 2.815(b).

<sup>4</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>5</sup> Letter from Kathryn S. Berthot, Chief, Spectrum Enforcement Division, Enforcement Bureau, Federal Communications Commission, to Eric Hoppe, Progressive Concepts (May 13, 2008).

<sup>6</sup> Letter from Eric Hoppe, Progressive Concepts, to Peter Waltonen, Esq, Spectrum Enforcement Division Enforcement Bureau, Federal Communications Commission (July 2, 2008).

1300K, 300WPA,S, 600WPP,S, and 600WPA,S), and one model manufactured by Broadcast Concepts (80WPA). You indicated that Progressive “was led to believe by the manufacturers that these devices fell under verification and did not require certification.”<sup>7</sup> You also stated that upon receiving the LOI, Progressive “immediately ceased all marketing of these devices in the United States.”<sup>8</sup>

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 2.815(b) of the Rules provides in pertinent part that:

[N]o person shall manufacture, sell or lease, 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 external radio frequency power amplifier of operation on any frequency or frequencies below 144 MHz unless the amplifier has received a grant of certification in accordance with subpart J of this part and other pertinent parts of this chapter.

The thirteen models of external RF amplifiers referenced above (FM2000, FM3000, FM4000, FM5000, IKWA, 525K, 1040K, 1150K, 1300K, 300WPA,S, 600WPP,S, 600WPA,S, and 80WPA) operated on frequencies below 144 MHz and therefore must be authorized in accordance with FCC equipment certification procedures prior to marketing in the United States. As you admitted in your response to the LOI, these thirteen external RF amplifiers do not have FCC equipment certification. Accordingly, it appears that Progressive violated Section 302(b) of the Act and Section 2.815(b) of the Rules by marketing in the United States the above referenced thirteen models of external RF amplifiers.

**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>9</sup>

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 Chicago Office, in Chicago, Illinois. Please call Peter Waltonen at 202-418-0097 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,<sup>10</sup> 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

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<sup>7</sup> *Id.* at 2.

<sup>8</sup> *Id.*

<sup>9</sup> See 47 C.F.R. § 1.80(b)(3).

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.<sup>11</sup>

Thank you in advance for your anticipated cooperation.

Sincerely,

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

cc: Dean J Polales. Esq.  
Ungaretti & Harris, LLP  
3500 Three First National Plaza  
Chicago , IL 60602  
(312) 977-9206

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<sup>10</sup> See 5 U.S.C. § 552(a)(e)(3).

<sup>11</sup> See 18 U.S.C. § 1001.