

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

In the Matter of)
)
Share Enterprises Unlimited, Inc.) File No.: EB-10-SE-079
)
Atlanta, GA)

CITATION

ILLEGAL MARKETING OF UNAUTHORIZED RADIO FREQUENCY DEVICES;
PROVISION OF INCORRECT, MATERIAL FACTUAL INFORMATION

Adopted: February 9, 2011

Released: February 9, 2011

By the Acting Chief, Spectrum Enforcement Division, Enforcement Bureau:

I. INTRODUCTION

1. This is an official CITATION issued pursuant to section 503(b)(5) of the Communications Act of 1934, as amended (“Communications Act”),¹ to Share Enterprises Unlimited, Inc. (“Share”) for marketing unauthorized radio frequency devices in the United States in violation of section 302(b) of the Communications Act,² and section 2.803 of the Commission’s rules (“Rules”),³ and for providing incorrect, material factual information to the Spectrum Enforcement Division (“Division”) of the Enforcement Bureau (“Bureau”) in violation of section 1.17(a)(2) of the Rules.⁴

2. Share should take immediate steps to come into compliance and to avoid any recurrence of this misconduct. As explained below and as provided in the Communications Act, future violations of the Rules in this regard may subject your company to substantial monetary penalties, seizure of equipment, and criminal sanctions. We also direct Share to supplement its response to the Division’s letter of inquiry and to submit a sample unit of the TxTStopper within thirty (30) days after the release of this Citation.

II. BACKGROUND

3. In response to complaints regarding the marketing of a radio frequency device called the TxTStopper™ that is advertised as preventing cell phone use in moving motor vehicles, the Division launched an investigation into whether the TxTStopper™ violates the Commission’s rules. The Division staff observed that the txtstopper.com website describes the TxTStopper™ as a “state of the art, hard

¹ 47 U.S.C. § 503(b)(5).

² *Id.* § 302a(b).

³ 47 C.F.R. § 2.803.

⁴ *Id.* § 1.17(a)(2).

wired mobile electronic device that totally prevents cell phone use while the vehicle is in drive mode.”⁵ The website indicates that the TxTStopper™ works with any U.S.-based cell phone; that the TxTStopper™ prevents anyone within the vehicle from making or receiving cell phone calls and sending or receiving text messages or emails on their cell phones within the “TxTSafe Zone™”; and that once installed, the TxTStopper™ cannot be intentionally or accidentally disabled by the driver.⁶ The website also includes testimonials from four individuals located in the United States who apparently purchased the TxTStopper™ and had the device installed in their motor vehicles.⁷

4. On July 20, 2010, the Division issued a letter of inquiry (“LOI”) to Share, the company that operates the [txtstopper.com](http://www.txtstopper.com) website.⁸ The LOI directed Share to respond to certain inquiries within 30 days and to ship a sample of the TxTStopper™ device to the FCC’s Office of Engineering and Technology (“OET”) Laboratory for testing within 14 days.⁹ Share responded to the LOI on September 6, 2010.¹⁰ In its LOI Response, Share stated that it began “market research” of the TxTStopper™ on July 1, 2010, in response to a new Georgia law that bans texting while driving as well as to other global initiatives intended to eliminate cell phone use while operating a motor vehicle.¹¹ Share stated that the TxTStopper™ “by design and function (unidirectional signal) is to be a custom designed in-vehicle accident avoidance/occupant safety system designed to operate in a strictly limited area – ONLY inside an owner’s personal vehicle and only when the vehicle is in drive mode.”¹² According to Share, only phones inside the vehicle in which the TxTStopper™ is installed are affected and the TxTStopper™ creates no outside interference.¹³ Share further asserted that the TxTStopper™ does not interfere with the user’s ability to make 9-1-1 calls at any time.¹⁴

5. However, Share did not provide any technical explanation or other evidence to substantiate its claims that the TxTStopper™ device only affects phones inside the vehicle where the device is installed, that the device does not create interference beyond the vehicle, and that while blocking all cell phone communications, the device nevertheless allows users to make 9-1-1 calls. Instead, Share

⁵ TxTStopper™ website, at <http://www.txtstopper.com/cms> (visited June 29, 2010 and October 18, 2010); *see also* TxTStopper on CNN at <http://www.youtube.com/watch?v=io8AtlGRjpQ>.

⁶ *See id.* at <http://www.txtstopper.com/cms/content/faqs> (visited June 29, 2010 and October 18, 2010).

⁷ *See id.* at <http://www.txtstopper.com/cms/> (Testimonials from Tina S., Atlanta, GA (“With TxTStopper™ I can rest easy knowing that [my daughter] won’t be distracted by her cell phone while she’s behind the wheel.”); Tony W., Canton, GA (“TxTStopper™ is the only product in the market that totally restricts cell phone use in my son’s car ... and it works like a charm!”); Earnest M., Chicago, IL (“[W]ith the TxTStopper™ in place, I know [my daughter] is a safer driver.”); Bebe C., Cincinnati, OH (“Thank you TxTStopper™. I just purchased a unit for my granddaughter’s vehicle and it works great!”)) (visited June 30, 2010 and September 8, 2010).

⁸ *See* Letter from Kathryn S. Berthot, Chief, Spectrum Enforcement Division, Enforcement Bureau, Federal Communications Commission, to Terrence Williams, CFO, Share Enterprises Unlimited, Inc. (July 20, 2010).

⁹ *See id.*

¹⁰ *See* Letter from Terrence Williams, Principal, Share Enterprises Unlimited, Inc., to Samantha Peoples, Spectrum Enforcement Division, Enforcement Bureau, Federal Communications Commission (September 6, 2010) (“LOI Response”). On August 18, 2010, the Enforcement Bureau granted Share’s request for an extension of time to respond to the LOI, setting a new response date of September 7, 2010.

¹¹ *Id.* at 1.

¹² *Id.* at 2.

¹³ *See id.*

¹⁴ *See id.*

simply stated that it was not the manufacturer of the device and that it obtained the TxTStopper™ “beta test units” from a supplier located in China.¹⁵ Contrary to the testimonials on the txtstopper.com website from four satisfied users,¹⁶ Share indicated that it had offered only three units of the TxTStopper™ during its market research efforts and that those three units were shipped directly from the overseas supplier to the end user.¹⁷ Share also claimed that the TxTStopper™ was certified by the FCC under FCC ID No. XRLTG-VIPJAMM.¹⁸ Finally, Share maintained that it was unable to provide the requested sample of the TxTStopper™ because research and development and beta testing of the device were ongoing by various manufacturer engineers and a prototype was pending.¹⁹

6. On November 2, 2010, agents from the Bureau’s Atlanta, Georgia Field Office observed a unit of the TxTStopper™ that had been installed in a vehicle owned by Just Driver Training, a driver’s education training school located in Canton, Georgia. Contrary to Share’s assertions, tests conducted by the agents indicated that the TxTStopper™ is in fact a cellular/PCS jammer and that when installed in a vehicle the TxTStopper™ is capable of blocking cellular communications initiated from both inside and outside of the vehicle,²⁰ apparently including 9-1-1 and other emergency calls.

III. APPLICABLE LAW AND VIOLATIONS

A. Illegal Marketing of Unauthorized Radio Frequency Devices

7. The Communications Act and the Rules prohibit the marketing and operation of cell phone jammers in the United States. Section 333 of the Communications Act states that “[n]o person shall willfully or maliciously interfere with or cause interference to any radio communications of any station licensed or authorized by or under this Act or operated by the United States Government.”²¹ In addition, section 302(b) of the Communications 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.”²²

¹⁵ *Id.* at 1. Share identified its supplier as Chinazrh International Co., Ltd. (“Chinazrh”). *See id.*

¹⁶ *See* n.7 *supra*.

¹⁷ *See* LOI Response at 2.

¹⁸ *Id.* The equipment certification under FCC ID No. XRLTG-VIPJAMM was granted to Shenzhen Tangreat Technology Co., Ltd. (“Shenzhen”) on October 20, 2009. *See* <https://fjallfoss.fcc.gov/oetcf/eas/reports/GenericSearch.cfm>. At the Bureau’s request, OET subsequently reviewed the equipment certification granted under FCC ID No. XRLTG-VIPJAMM and the underlying application and supporting documents. OET observed certain apparent discrepancies between the application, test report, and equipment certification as to the nature and purpose of the device. Specifically, the device approved under this certification, which was issued to Shenzhen by a Telecommunications Certification Body (“TCB”) – a private entity designated by the Commission to approve equipment subject to certification – was purportedly a Part 15, Class B computer peripheral not a jamming device. Therefore, in a companion decision issued concurrently with this Citation, the Enforcement Bureau commences a hearing proceeding to revoke the equipment certification held by Shenzhen, that is apparently connected to the TxTStopper device, under FCC ID No. XRLTG-VIPJAMM. *See Shenzhen Tangreat Technology Co., Ltd.*, Order to Show Cause and Notice of Opportunity for Hearing, DA 11-246 (Enf. Bur. Feb. 9, 2011).

¹⁹ *See* LOI Response at 2.

²⁰ Field tests indicate that calls are blocked within a 150-foot radius of the vehicle.

²¹ 47 U.S.C. § 333.

²² *Id.* § 302a(b).

8. The applicable implementing regulations for section 302(b) are set forth in sections 2.803, 15.201, and 15.3(o) of the Rules. Section 2.803(a)(1) of the Rules 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.²³

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.²⁴

9. Pursuant to section 15.201(b) of the Rules,²⁵ before intentional radiators²⁶ like cell phone jammers can be marketed in the United States, they must be authorized in accordance with the Commission's certification procedures. Section 2.803(e)(4) of the Rules defines "marketing" as the "sale or lease, or offering for 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."²⁷

10. Jamming devices, however, cannot be certified or authorized because the main purpose of a jamming device is to block or interfere with radio communications. As noted above, such use is clearly prohibited by section 333 of the Communications Act. Thus, cell phone jammers cannot comply with the Commission's technical standards and therefore cannot be marketed in the United States.

11. As detailed above and based on the field tests conducted by Bureau staff, the TxTStopper™ prevents anyone in a vehicle in which it is installed from making or receiving cell phone calls and sending or receiving text messages or emails on their cell phones, and also can block calls made from outside the vehicle, apparently including 9-1-1 and other emergency calls.²⁸ Accordingly, the

²³ 47 C.F.R. § 2.803(a)(1).

²⁴ *Id.* § 2.803(g).

²⁵ *Id.* § 15.201(b).

²⁶ 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).

²⁷ 47 C.F.R. § 2.803(e)(4).

²⁸ *See supra* para. 7 and n.29 (noting that calls are blocked within a 150-foot radius of the vehicle). The importance of preserving public safety and emergency communications free of jamming signals cannot be overstated and is reflected in the Commission's investigations and enforcement actions in this area. *See, e.g., Phonejammer.com*, Notice of Apparent Liability for Forfeiture, 25 FCC Rcd 3827 (Enf. Bur. Apr. 20, 2010) (initiating a \$25,000 forfeiture proceeding against the company for marketing jammers designed to interfere with cellular and "PCS" utilized by St. Lucie County, Florida Sheriff's Office); *Everybuying.com*, Citation, DA 10-2295 (Enf. Bur. Dec. 6, 2010) (citing the company for marketing both cell phone signal and Global Positioning System ("GPS") signal blocker devices, and noting that GPS signal blockers operate within restricted frequency bands listed in Section 15.205(a) of the Rules); *Jammerworld.com*, Citation, DA 10-2240, 2010 WL 4808497 (Enf. Bur. Nov. 26, 2010) (citing the company for marketing a device that jams signals in the Cell Phone Band (845-975 MHz), PCS Band (1800-1996 MHz), and GPS L1 frequency 1575.42 MHz); *Victor McCormack, phonejammer.com*, Citation, DA 10-1975, (Enf. Bur. Oct. 14, 2010) (citing the company for misrepresentations made during the course of an

(continued...)

TxTStopper™ is a radio frequency jammer that blocks or interferes with radio communications, in violation of section 333 of the Communications Act. Cell phone jammers, such as the TxTStopper™, cannot comply with the FCC's technical standards and therefore cannot be marketed in the United States.

12. Share stated in its LOI Response that the TxTStopper™ is certified under FCC ID No. XRLTG-VIPJAMM. It appears, however, that there are substantial differences between the device that was approved under FCC ID No. XRLTG-VIPJAMM and the device that has been marketed as the TxTStopper™ under this FCC ID. As noted, the evidence indicates that the device marketed under FCC ID No. XRLTG-VIPJAMM is an intentional radiator with a transmitter designed to block, jam, or otherwise interfere with radio communications. The information submitted by the grantee in the application for the device certified under FCC ID No. XRLTG-VIPJAMM apparently misled the TCB and caused it to conclude the opposite – that the device is an unintentional radiator, a Part 15 Class B computer peripheral.²⁹ Because it appears that the TxTStopper™ is not identical to the sample tested as part of the application for certification for the device certified under FCC ID No. XRLTG-VIPJAMM, the certification granted under FCC ID No. XRLTG-VIPJAMM does not attach to the TxTStopper™.³⁰ Therefore, it cannot legally be marketed by Share under section 302(b) of the Communications Act and section 2.803 of the Rules.

13. Accordingly, we find that Share has violated section 302(b) of the Communications Act and section 2.803(a)(1) of the Rules by marketing in the United States radio frequency devices that are not eligible for certification. We therefore issue this Citation to Share for violating the Communications Act and the Rules as discussed above. Share should take immediate steps to ensure that these violations do not continue.

investigation of Phonejammer.com's sale of jammer devices); *Anoy Wray*, Notice of Unlicensed Operation, Document Number W201032380068 (Enf. Bur. May 18, 2010) (citing Mr. Wray for using radio transmitting device designed to jam GPS transmissions); *Gene Stinson d.b.a. D&G Food Mart*, Notice of Unauthorized Operation and Interference to Licensed Radio Stations, Document Number W200932500003 (Enf. Bur. Aug. 13, 2009) (citing the company for use of two radio transmitting devices designed to jam licensed radio communications transmission in the 850-894 MHz and other licensed frequency bands used by City of Oklahoma City Radio System).

²⁹ See 47 C.F.R. § 15.101-15.124. Specifically, the Commission's review of the test report and other data submitted with the application indicates that the device approved under FCC ID No. XRLTG-VIPJAMM was tested when connected to a personal computer and the AC power line (rather than in a motor vehicle) and that it did not have any circuitry for receiving or transmitting radio signals. By contrast, the TxTStopper™ device that is being marketed by Share under FCC ID No. XRLTG-VIPJAMM is clearly intended for use in a motor vehicle and is apparently powered by the car battery. According to the [txtstopper.com](http://www.txtstopper.com) website, TxTStopper™ is "a simple 12v device and is easily installed in less than 1 hour by your local professional car stereo/auto alarm technician." TxTStopper™ website, at <http://www.txtstopper.com/cms/content/faqs> (visited June 29, 2010 and October 18, 2010). Accordingly, it appears that the device marketed under FCC ID No. XRLTG-VIPJAMM is not identical to the sample tested as part of the application for certification, nor does it conform to the representations made in the original applications. Under section 2.907(b) of the Rules, certification attaches to all units subsequently marketed by the grantee which are identical to the sample tested except for permissive changes or other variations authorized by the Commission. 47 C.F.R. § 2.907(b). See also 47 C.F.R. § 2.931.

³⁰ See 47 C.F.R. § 2.907(b).

B. Provision of Incorrect, Material Factual Information

14. In addition, the Commission's rules require truthfulness and candor in all written or oral statements submitted to the agency and its staff. Section 1.17 of the Rules³¹ provides, in pertinent part, that in any investigation, no person shall:

(1) In any written or oral statement of fact, intentionally provide material factual information that is incorrect or intentionally omit material information that is necessary to prevent any material factual statement that is made from being incorrect or misleading; and

(2) In any written statement of fact, provide material factual information that is incorrect or omit material information that is necessary to prevent any material factual statement that is made from being incorrect or misleading without a reasonable basis for believing that any such material factual statement is correct and not misleading.

Any person who has received a letter of inquiry from the Commission or its staff or is otherwise the subject of a Commission investigation must comply with section 1.17 of the Rules.³² In expanding the scope of section 1.17 in 2003 to include written statements that are made without a reasonable basis for believing the statement is correct and not misleading, the Commission explained that this requirement was intended to more clearly articulate the obligations of persons dealing with the Commission, ensure that they exercise due diligence in preparing written submissions, and enhance the effectiveness of the Commission's enforcement efforts.³³ Thus, even in the absence of an intent to deceive, a false statement provided without a reasonable basis for believing that the statement is correct and not misleading constitutes an actionable violation of section 1.17 of the Rules.³⁴ As the Commission has stated:

in preparing written statements in fact-based adjudications and investigations, regulatees are on heightened notice that they must have a reasonable basis to believe that what they say is correct and not misleading. In these circumstances, we consider it justified to require that parties use due diligence in providing information that is correct and not misleading to the Commission, including taking appropriate affirmative steps to determine the truthfulness of what is being submitted. A failure to exercise such reasonable diligence would mean that the party did not have a reasonable basis for believing in the truthfulness of the information.³⁵

15. Notwithstanding Share's claim in its LOI Response that only phones inside the vehicle where the TxTStopper™ is installed are affected and that the TxTStopper™ creates no outside interference, the field tests conducted by Bureau staff indicate that the TxTStopper™ blocks calls made

³¹ 47 C.F.R. § 1.17.

³² *Id.* § 1.17(b)(4).

³³ *See Amendment of Section 1.17 of the Commission's Rules Concerning Truthful Statements to the Commission*, Report and Order, 18 FCC Rcd 4016, 4021 (2003), *recon. denied*, Memorandum Opinion and Order, 19 FCC Rcd 5790, *further recon. denied*, Memorandum Opinion and Order, 20 FCC Rcd 1250 (2004).

³⁴ *See id.* at 4017 (stating that the revision to section 1.17 of the Rules is intended to "prohibit incorrect statements of omissions that are the results of negligence, as well as an intent to deceive").

³⁵ *See id.* at 4021.

from outside the vehicle. Moreover, while Share claimed in its LOI Response that it had offered only three units of the TxTStopper™, the txtstopper.com website included testimonials from four users located in the United States who appear to have purchased units of the TxTStopper™.

16. Share apparently had no reasonable basis for believing that the information it provided in its LOI Response regarding the TxTStopper™ was correct and not misleading. Based on the evidence in the record, we believe that, had Share exercised a minimum of diligence prior to the submission of its LOI Response, it presumably would not have submitted incorrect or misleading material factual information.³⁶ We therefore find that Share violated section 1.17(a)(2) of the Rules by providing material factual information that is incorrect without a reasonable basis for believing that the material factual information was correct.

17. Finally, we direct Share to supplement and, if necessary, correct its LOI Response to ensure that it is accurate and complete within thirty (30) days after the release of this Citation.³⁷ We also again direct Share to submit a sample unit of the TxTStopper™ as previously requested in the LOI within thirty (30) days after the release of this Citation.³⁸

IV. FUTURE COMPLIANCE

18. If, after receipt of this Citation, Share violates the Communications Act or the Rules by engaging in conduct of the type described herein, the Commission may impose monetary forfeitures of up to \$16,000 for each such violation or each day of a continuing violation and up to \$112,500 for any single act or failure to act.³⁹ In addition, violations of the Communications Act or the Rules can result in seizure of equipment through *in rem* forfeiture actions, as well as criminal sanctions, including imprisonment.⁴⁰

19. Share may respond to this Citation within thirty (30) days after the release date of this Citation either through (1) a personal interview at the closest FCC office, or (2) a written statement. Any written statements should specify what actions have been taken by Share to ensure that it does not violate

³⁶ See, e.g., *Syntax-Brilliant Corporation*, Forfeiture Order and Notice of Apparent Liability for Forfeiture, 23 FCC Rcd 6323, 6342 (2008) (finding that a television manufacturer apparently provided incorrect material information concerning its importation and interstate shipment of non-DTV-compliant televisions without a reasonable basis for believing that the information was correct and not misleading, in violation of section 1.17(a)(2) of the Rules); *Citicasters License, L.P.*, Memorandum Opinion and Order and Notice of Apparent Liability for Forfeiture, 22 FCC Rcd 19324, 19338 (2007) (forfeiture paid) (finding that a licensee's false certification that it had not violated the Communication's Act or any Commission rules during the preceding license term, although not made with the intent to deceive the Commission, had no reasonable basis and therefore, apparently violated section 1.17(a)(2) of the Rules).

³⁷ The LOI issued to Share explicitly stated that the inquiries made therein are continuing in nature and that Share must supplement its responses if it learns that, in some material respect, the documents and information initially disclosed were incomplete or incorrect, or if additional responsive documents or information are acquired by or become known to Share after the initial production.

³⁸ Share claimed in its LOI Response that it was unable to provide the requested sample of the TxTStopper™ because research and development and beta testing of the device were ongoing by various manufacturer engineers and a prototype was pending. See LOI Response at 2. We note, however, that Just Driver Training indicated to Bureau staff that it recently returned the unit of the TxTStopper™ it had installed to Share.

³⁹ See 47 U.S.C. §§ 401, 501, 503; 47 C.F.R. § 1.80(b)(3). This amount is subject to further adjustment for inflation and the forfeiture amount applicable to any violation will be determined based on the statutory amount designated at the time of the violation. See 47 C.F.R. § 1.80(b)(5).

⁴⁰ See 47 U.S.C. § 510.

the Rules governing the marketing of unauthorized radio frequency devices in the future. Please reference file number EB-10-SE-079 when corresponding with the Commission.

20. Under the Privacy Act of 1974, any statement or information provided by you may be used by the Commission to determine if further enforcement action is required.⁴¹ Any knowingly or willfully false statement, or concealment of any material fact, made in reply to this Citation is punishable by fine or imprisonment.⁴² Please also note that section 1.17 of the Rules requires that you provide truthful and accurate statements to the Commission.⁴³

V. CONTACT INFORMATION

21. The closest FCC Office is the Atlanta Office in Duluth, Georgia. You may contact Kevin Pittman by telephone, 202-418-1160, to schedule a personal interview, which must take place within thirty (30) days after the release date of this Citation. You should send any written statement within thirty (30) days after the release date of this Citation to:

Ricardo M. Durham
Acting Chief, Spectrum Enforcement Division
Enforcement Bureau
Federal Communications Commission
445 12th Street, S.W., Rm. 3-C366
Washington, D.C. 20554
Re: EB File No. EB-10-SE-079

22. Reasonable accommodations for people with disabilities are available upon request. Include a description of the accommodation you will need including as much detail as you can. Also include a way we can contact you if we need more information. Please allow at least five (5) days advance notice; last minute requests will be accepted, but may be impossible to fill. Send an e-mail to fcc504@fcc.gov or call the Consumer & Governmental Affairs Bureau:

For sign language interpreters, CART, and other reasonable accommodations:
202-418-0530 (voice), 202-418-0432 (tty);

For accessible format materials (braille, large print, electronic files, and audio format):
202-418-0531 (voice), 202-418-7365 (tty).

⁴¹ See Privacy Act of 1974, 5 U.S.C. § 552a(e)(3).

⁴² See 18 U.S.C. § 1001 *et seq.*

⁴³ 47 C.F.R. § 1.17.

VI. ORDERING CLAUSE

23. **IT IS ORDERED** that a copy of this Citation shall be sent both by First Class U.S. Mail and Certified Mail, Return Receipt Requested to Mr. Terrence Williams, Principal, Share Enterprises Unlimited, Inc., 1266 W Paces Ferry Rd., NW #128, Atlanta, GA 30327-2306.

FEDERAL COMMUNICATIONS COMMISSION

Ricardo M. Durham
Acting Chief
Spectrum Enforcement Division
Enforcement Bureau