

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

In the Matter of)	
)	File No.: EB-11-PA-0059
Lock Haven University)	
)	Citation No.: C201132400002
Lock Haven, Pennsylvania)	
)	
)	

CITATION

Adopted: April 18, 2011

Released: April 20, 2011

By the District Director, Philadelphia Office, Northeast Region, 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 (“Act”),¹ to Lock Haven University for failing to notify the Commission before operating a multichannel video programming distributor (“MVPD”), in violation of section 76.1804 of the Commission's Rules ("Rules") and for exceeding cable signal leakage limits, in violation of section 76.605(a)(12) of the Rules.²

2. Lock Haven University should take immediate steps to come into compliance and to avoid any recurrence of these violations. As explained below, and as provided in the Communications Act, future violations of these Rules may subject your company to substantial monetary penalties, seizure of equipment, and criminal sanctions.

II. BACKGROUND

3. On March 22, 2011, agents from the Enforcement Bureau’s Philadelphia Office conducted an investigation and found that Lock Haven University, located at 401 North Fairview Street in Lock Haven, Pennsylvania, utilized a cable, multichannel video programming distributor (“MVPD”) system at its university property. The agents also found that the Lock Haven University’s MVPD system was using aeronautical frequencies 121.2625 MHz, 127.2625 MHz and 133.2625 MHz, but had not filed FCC Form 321 to notify the Commission of its operation in the aeronautical band. During the March 22, 2011 investigation, agents conducted field strength measurements on the frequency 133.2625 MHz in front of the Smith Hall Dormitory and measured an emission of 518.4 microvolts per meter, which exceeds the field strength allowed on that frequency by the Rules.

¹ 47 U.S.C. § 503(b)(5).

² 47 C.F.R. §§ 76.605(a)(12), 76.1804.

III. APPLICABLE LAW AND VIOLATIONS

4. The Rules provide that cable and non-cable MVPD's that transmit carriers with certain characteristics within frequency bands of 108-137 MHz and 225-400 MHz must comply with specific technical requirements delineated in the rules in order to avoid interference to other licensed operations, including aeronautical systems operating in these frequency ranges. In particular, section 76.610 of the Rules provides that all MVPDs (cable and non-cable) transmitting carriers or other signal components at an average power level equal to or greater than 10^{-4} watts across a 25 kHz bandwidth in any 160 microsecond period, at any point in the cable distribution system in the frequency bands 108-137 and 225-400 MHz for any purpose must comply with, among others, sections 76.605(a)(12) and 76.1804.³ Lock Haven University was required to comply with these rules because its MVPD system at its university property in Lock Haven, Pennsylvania, transmitted carriers at an average power level equal to or greater than 10^{-4} watts across a 25 kHz bandwidth in any 160 microsecond period and carries signals in the 108-137 MHz aeronautical band.

5. Section 76.1804 of the Rules requires that an "MVPD shall notify the Commission before transmitting any carrier or other signal component with an average power level across a 25 kHz bandwidth in any 160 microsecond time period equal to or greater than 10^{-4} watts at any point in the cable distribution system on any frequency or frequencies in the aeronautical radio frequency bands (108-137 and 225-400 MHz). The notification shall be made on FCC Form 321."⁴ Lock Haven University was using the aeronautical frequencies 121.2625 MHz, 127.2625 MHz and 133.2625 MHz, but had not notified the Commission as required.

6. Section 76.605(a)(12) of the Rules provides that "[a]s an exception to the general provision requiring measurements to be made at subscriber terminals, and without regard to the type of signals carried by the cable television system, signal leakage from a cable television system shall be measured in accordance with the procedures outlined in § 76.609(h) and shall be limited as follows: Over 54 MHz up to and including 216 MHz – 20 micro-volts per meter, measured at 3 meters."⁵ At the time of inspection, FCC agents from the Philadelphia Office conducted field strength measurements on the frequency 133.2625 MHz in front of the Smith Hall dormitory building and measured an emission of 518.4 microvolts per meter, which exceeds the field strength allowed on that frequency by the Rules.

IV. FUTURE COMPLIANCE

7. If, after receipt of this Citation, Lock Haven University violates the Communications Act or the Rules by engaging in conduct of the type described herein, the Commission may impose monetary forfeitures for any single act or failure to act.⁶ In addition, violations of the Communications Act or the

³ 47 C.F.R. § 76.610; *see* attached "Excerpts from 47 C.F.R. Part 76 related to Multichannel Video Programming Distributors."

⁴ 47 C.F.R. § 76.1804.

⁵ 47 C.F.R. § 76.605(a)(12).

⁶ *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 (*see id.* § 1.80(b)(5)), and the forfeiture amount applicable to any violation will be determined based on the statutory amount designated at the time of the violation.

Rules can result in seizure of equipment through *in rem* forfeiture actions, as well as criminal sanctions, including imprisonment.⁷

8. Lock Haven University 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 Lock Haven University to ensure FCC notification for operating an MVPD system at its university property and does not program radio transmitters with unauthorized frequencies in the future. Please reference file number EB-11-PA-0059 when corresponding with the Commission.

9. 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.⁸ Any knowingly or willfully false statement, or concealment of any material fact, made in reply to this Citation is punishable by fine or imprisonment.⁹ Please also note that section 1.17 of the Rules requires that you provide truthful and accurate statements to the Commission.¹⁰

V. CONTACT INFORMATION

10. The closest FCC Office is the Philadelphia Office in Langhorne, Pennsylvania. You may contact Gene Stanbro by telephone, (215) 741-3016, 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: Federal Communications Commission, Philadelphia Office, One Oxford Valley Building, Suite 404, 2300 East Lincoln Highway, Langhorne, Pennsylvania 19047.

11. 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);

To request this document in accessible formats for people with disabilities (braille, large print, electronic files, audio format): 202-418-0530 (voice), 202-418-0432 (tty).

⁷ See 47 U.S.C. § 510.

⁸ See Privacy Act of 1974, 5 U.S.C. § 552a(e)(3).

⁹ See 18 U.S.C. § 1001 *et seq.*

¹⁰ 47 C.F.R. § 1.17 (“... no person subject to this rule 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.”).

VI. ORDERING CLAUSES

12. **IT IS ORDERED** that a copy of this Citation shall be sent both by First Class U.S. Mail and certified mail to Lock Haven University at 401 North Fairview Street, Lock Haven, Pennsylvania 17745.

FEDERAL COMMUNICATIONS COMMISSION

Gene J. Stanbro
District Director
Philadelphia Office
Northeast Region
Enforcement Bureau