

**Before the  
Federal Communications Commission  
Washington, DC 20554**

In the Matter of	)	
	)	
Phong Le Company	)	File No.: EB-FIELDSCR-12-00004960
d/b/a Mega DJ and Karaoke Center;	)	Citation No.: C201332540001
<u>www.shopmegakaraoke.com</u> ,	)	
	)	
Houston, Texas	)	
	)	

**CITATION AND ORDER**

**Illegal Marketing of Wireless Microphones**

**Adopted:** June 5, 2013

**Released:** June 5, 2013

By the Resident Agent, Houston Office, South Central Region, Enforcement Bureau:

**I. INTRODUCTION**

1. This is an official **CITATION AND ORDER** (Citation) issued pursuant to Section 503(b)(5) of the Communications Act of 1934, as amended (Communications Act or Act),<sup>1</sup> to Phong Le Company d/b/a Mega DJ and Karaoke Center (Mega DJ). Specifically, Mega DJ is being cited for marketing<sup>2</sup> to consumers in the United States and its territories (United States) and on its online website, www.shopmegakaraoke.com, unauthorized radio frequency devices—i.e., 700 MHz wireless microphones—in violation of Section 302(b) of the Communications Act<sup>3</sup> and Section 74.851(g) of the Commission’s rules (Rules).<sup>4</sup>

2. Notice of Duty to Comply With Laws: Mega DJ should immediately remove all wireless microphones capable of operating in the 700 MHz frequency band from display (including online display), cease marketing (including the advertisement and/or sale) such devices in the United States, and take steps to avoid any recurrence of the misconduct described herein. Mega DJ is hereby on notice that if it subsequently engages in any conduct of the type described in this Citation, including any violation of Section 302(b) of the Act or Section 74.851(g) of the Rules, it may be subject to civil and criminal penalties, including but not limited to substantial monetary fines (forfeitures) and seizure of equipment. Such forfeitures may be based on both the conduct that led to this Citation and the conduct following it.<sup>5</sup>

<sup>1</sup> 47 U.S.C. § 503(b)(5).

<sup>2</sup> The term “marketing,” as applied in this case, is defined in note 12, *infra*.

<sup>3</sup> 47 U.S.C. § 302a(b).

<sup>4</sup> 47 C.F.R. § 74.851(g).

<sup>5</sup> See 47 U.S.C § 503(b)(5). See also S. Rep. No. 95-580, 95th Cong., 1st Sess. at 9 (1977) (If a person or entity that has been issued a citation by the Commission thereafter engages in the conduct for which the citation of violation was sent, the subsequent notice of apparent liability “*would attach not only for the conduct occurring subsequently but also for the conduct for which the citation was originally sent.*”) (emphasis added).

3. **Your Response Required:** Pursuant to Sections 4(i), 4(j), and 403 of the Communications Act,<sup>6</sup> we also direct Mega DJ to confirm in writing, within thirty (30) calendar days after the release date of this Citation, and signed under penalty of perjury, that it has ceased marketing wireless 700 MHz microphones, including in its retail stores and on its online website, [www.shopmegakaraoke.com](http://www.shopmegakaraoke.com).

## II. BACKGROUND

4. On October 23, 2012, during an investigation of interference to an authorized radio service, agents from the Enforcements Bureau's Houston Office visited Mega DJ's store in Houston, Texas,<sup>7</sup> and observed that Mega DJ was marketing 700 MHz wireless microphones. The agents observed a Better Music Builder model VM-93C on a display shelf with a price tag attached. The model unit came with two wireless microphones, a charging stand, and dual receiver. After being warned by the agents that such devices were illegal to sell, the store personnel removed the device from the display shelf, stated that the display unit was the last one in inventory, and agreed not to offer it for sale.

5. An agent from the Houston Office later visited Mega DJ's online store, [www.shopmegakaraoke.com](http://www.shopmegakaraoke.com), and observed that Mega DJ has marketed via the Internet within the past several months the Better Music Builder model VM-93C non-certified wireless microphone system to consumers in the United States.<sup>8</sup> Specifically, the agent observed Mega DJ offering the "Better Music Builder VM-93C Professional UHF Rechargeable Wireless Microphone System" for sale for \$450.00.<sup>9</sup> The frequency range for this wireless microphone system was listed as "752-798 MHz."<sup>10</sup>

## III. APPLICABLE LAW AND VIOLATIONS

6. 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."<sup>11</sup> Commission rules expressly prohibit the marketing<sup>12</sup> of wireless microphones that can operate in the 700 MHz frequency band.<sup>13</sup> Specifically, Section 74.851(g) of the Rules prohibits the manufacture, importation, sale, lease,

---

<sup>6</sup> 47 U.S.C. §§ 154(i), 154(j), 403.

<sup>7</sup> Mega DJ operates from a store located at 14037 Westheimer Road, Houston, Texas.

<sup>8</sup> See [https://shopmegakaraoke.com/Better-Music-Builder-VM-93C-Professional-UHF-Rechargeable-Wireless-Microphone-System-VM-93C-Professional-UHF-Rechargeable-Wireless-Microphone-is-the-second-generation-of-UHF-rechargeable-wireless-microphone-system-designed-by-the-engineering-team-of-Bett?filter\\_name=VM-93C&filter\\_description=true](https://shopmegakaraoke.com/Better-Music-Builder-VM-93C-Professional-UHF-Rechargeable-Wireless-Microphone-System-VM-93C-Professional-UHF-Rechargeable-Wireless-Microphone-is-the-second-generation-of-UHF-rechargeable-wireless-microphone-system-designed-by-the-engineering-team-of-Bett?filter_name=VM-93C&filter_description=true) (last visited Feb. 19, 2013). When the microphone system is placed in the online shopping cart, the consumer must enter a shipping country, state and zip code. When U.S., Texas, and 77065 are entered, shipping charges are listed as \$0.00.

<sup>9</sup> *Id.*

<sup>10</sup> *Id.*

<sup>11</sup> 47 U.S.C. § 302a(b).

<sup>12</sup> 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." 47 C.F.R. § 2.803(e)(4).

<sup>13</sup> The "700 MHz band" – between 698 and 806 MHz – is reserved for use only by public safety groups. See *Wireless Microphones Are Not Permitted To Operate On Certain Frequencies After June 12, 2010*, Enforcement Advisory, 25 FCC Rcd 7409 (Enf. Bur. 2010); *Revisions to Rules Authorizing the Operation of Low Power*

offer for sale or lease, or shipment of wireless microphones and other low power auxiliary stations intended for use in the 700 MHz band (698-806 MHz) in the United States.<sup>14</sup>

7. According to information posted on Mega DJ's webpage (which targets consumers in the United States), the Better Music Builder model VM-93C wireless microphone system operates in the 700 MHz frequency band. Thus, the VM-93C wireless microphone system may not be sold or offered for sale (including online) in the United States. Here, the FCC agents observed that Mega DJ was marketing (including advertising for sale and offering for sale) the illegal wireless microphone at its retail store and on its online store. Based on the foregoing evidence, we find that Mega DJ violated Section 302(b) of the Communications Act and Section 74.851(g) of the Rules by marketing and offering for sale in the United States illegal wireless microphones.<sup>15</sup>

#### IV. REQUEST FOR INFORMATION

8. Pursuant to Sections 4(i), 4(j), and 403 of the Communications Act,<sup>16</sup> Mega DJ is directed to confirm in writing that it has ceased marketing 700 MHz wireless microphones in its stores and on its online website (which may include the actions taken to remove these devices from its displays and webpages to ensure that it does not market—at its retail stores or online—the unlawful devices in the United States) within thirty (30) calendar days after the release date of this Citation. A failure to respond in writing, or an inadequate, incomplete, or misleading response, may subject Mega DJ to additional sanctions.<sup>17</sup>

#### V. RESPONDING TO THIS CITATION

9. In addition to the required written information described in paragraphs 3 and 8, above, Mega DJ may, if it so chooses, respond to this Citation—challenging the factual and legal findings herein—within thirty (30) calendar days from the release date of this Citation either through (1) a written statement, (2) a teleconference interview, or (3) a personal interview at the Commission Field Office nearest to your place of business.

10. If you would like to arrange a teleconference or personal interview, please contact Stephen P. Lee at 713-983-9763. The nearest Commission Field Office is located in Houston, Texas. Such teleconference or interview must take place within thirty (30) calendar days of the date of this

---

*Auxiliary Stations in the 698-806 Band*, Report and Order and Further Notice of Proposed Rulemaking, 25 FCC Rcd 643 (2010).

<sup>14</sup> 47 C.F.R. § 74.851(g).

<sup>15</sup> 47 U.S.C. § 302; 47 C.F.R. § 74.851(g).

<sup>16</sup> 47 U.S.C. §§ 154(i), 154(j), 403.

<sup>17</sup> See, e.g., *SBC Communications, Inc., Apparent Liability for Forfeiture*, Forfeiture Order, 17 FCC Rcd 7589, 7599–7600, ¶¶ 23–28 (2002) (\$100,000 forfeiture for egregious and intentional misconduct, *i.e.*, refusing to attest to truthfulness and accuracy of responses to a Letter Inquiry (LOI)); *Connect Paging, Inc. d/b/a Get A Phone*, Forfeiture Order, 22 FCC Rcd 15146 (Enf. Bur. 2007) (\$4,000 forfeiture for failure to respond to an LOI); *BigZoo.Com Corporation*, Order of Forfeiture, 20 FCC Rcd 3954 (Enf. Bur. 2005) (\$20,000 forfeiture for failure to respond to a USF LOI); *Donald W. Kaminski, Jr.*, Forfeiture Order, 18 FCC Rcd 26065 (Enf. Bur. 2003) (\$4,000 forfeiture for failure to respond to an LOI); *World Communications Satellite Systems, Inc.*, Notice of Apparent Liability for Forfeiture, 18 FCC Rcd 18545 (Enf. Bur. 2003) (\$10,000 forfeiture for a non-responsive reply to an LOI); *Digital Antenna, Inc., Sunrise, Florida*, Notice of Apparent Liability for Forfeiture, 23 FCC Rcd 7600 (Enf. Bur. 2007) (\$11,000 forfeiture for failure to provide complete responses to an LOI).

Citation. If you would like to submit a written response, including any supporting documentation, you must send the response within thirty (30) calendar days of the date of this Citation to the contact and address provided in paragraph 11, below.

11. All written communications, including the information requested in paragraphs 3 and 8, above, should be provided to the address below.

Stephen P. Lee  
Federal Communications Commission  
Houston Office  
9597 Jones Road, #362  
Houston, TX 77065  
**Re: EB-FIELDSCR-12-00004960**

12. Reasonable accommodations for people with disabilities are available upon request. Include a description of the accommodation you will need, and include 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) business days advance notice; last minute requests will be accepted, but may be impossible to fill. Send an e-mail to [fcc504@fcc.gov](mailto:fcc504@fcc.gov) or call the FCC's 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).

13. Please be advised that it is a violation of Section 1.17 of the Commission's rules (47 C.F.R. § 1.17) for any person or a staff member of that person to make any false or misleading written or oral statement of fact. Specifically, 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.<sup>18</sup>

14. Further, 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.

15. If you violate Section 1.17 of the Commission's rules or the criminal statute referenced above, you may be subject to further legal action, including monetary fines pursuant to Section 503 of the Communications Act.<sup>19</sup>

---

<sup>18</sup> 47 C.F.R. § 1.17.

<sup>19</sup> 47 U.S.C. § 503.

16. Under the Privacy Act of 1974, 5 U.S.C. § 552a(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.

## VI. FUTURE VIOLATIONS

17. If, after receipt of this Citation, Mega DJ again violates Section 302(b) of the Act or Section 74.851(g) of the Rules by engaging in conduct of the type described herein, the Commission may impose monetary forfeitures not to exceed \$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.<sup>20</sup> For instance, the Commission could impose separate forfeitures for each 700 MHz wireless microphone sold or for each day on which a 700 MHz wireless microphone is advertised or otherwise offered for sale. Further, as discussed above, such forfeitures may be based on both the conduct that led to the Citation and the conduct following it.<sup>21</sup> In addition, violations of the Communications Act or the Rules also can result in seizure of equipment through *in rem* forfeiture actions,<sup>22</sup> as well as criminal sanctions, including imprisonment.<sup>23</sup>

## VII. ORDERING CLAUSES

18. **IT IS ORDERED** that, pursuant to Sections 4(i), 4(j), and 403 of the Communications Act, Phong Le Company d/b/a Mega DJ and Karaoke Center must provide the written information requested in paragraphs 3 and 8, above. The response to the request for information must be provided in writing, signed under penalty of perjury by an authorized official at Phong Le Company d/b/a Mega DJ and Karaoke Center, and must be received by the FCC within thirty (30) calendar days after the release date of this Citation and Order.

---

<sup>20</sup> See 47 U.S.C. §§ 401, 501, 503; 47 C.F.R. § 1.80(b)(7). This amount is subject to further adjustment for inflation (*see id.* § 1.80(b)(9)), and the forfeiture amount applicable to any violation will be determined based on the statutory amount designated at the time of the violation.

<sup>21</sup> See paragraph 2, *supra*.

<sup>22</sup> See 47 U.S.C. § 510.

<sup>23</sup> See 47 U.S.C. §§ 401, 501.

19. **IT IS FURTHER ORDERED** that a copy of this Citation and Order shall be sent by First Class U.S. Mail and by Certified Mail, Return Receipt Requested, to Phong Le Company d/b/a Mega DJ and Karaoke Center at 14037 Westheimer Road, Houston, Texas 77077.

**FEDERAL COMMUNICATIONS COMMISSION**

Stephen P. Lee  
Resident Agent  
Houston Office  
South Central Region  
Enforcement Bureau