

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

In the Matter of

CB Radio Masters, LLC.

Rockwall, Texas

)
)
)
)
)
)
)

File No.: EB-FIELDSCR-13-00006850

Citation No.: C201332500001

CITATION AND ORDER

Illegal Marketing of Unauthorized Radio Frequency Devices

Adopted: August 20, 2013**Released:** August 20, 2013

By the District Director, Dallas 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),¹ to CB Radio Masters, LLC. (Radio Masters). Specifically, Radio Masters is being cited for marketing² to consumers in the United States and its territories (United States) in its retail store unauthorized radio frequency devices in violation of Section 302(b) of the Act,³ and Sections 2.803 and 2.815(b) of the Commission's rules (Rules).⁴

2. Notice of Duty to Comply With Laws: Radio Masters should immediately remove all unauthorized radio frequency devices, such as non-certified radio frequency (RF) amplifiers, from display (including online display); cease marketing (including the advertisement and/or sale of) such devices in the United States; and take steps to avoid any recurrence of the misconduct described herein. Radio Masters 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 Sections 2.803 and 2.815(b) 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.⁵

¹ 47 U.S.C. § 503(b)(5).

² The term "marketing," as applied in this case, is defined in paragraph 5, *infra*.

³ 47 U.S.C. § 302a(b).

⁴ 47 C.F.R. §§ 2.803, 2.815(b).

⁵ 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).

II. BACKGROUND

3. Radio Masters promotes itself as a CB radio shop catering to truck drivers in its stores and on its website, www.radiomastercbshop.com.⁶ On February 14, 2013, agents from the Dallas Office inspected the Radio Masters CB shop inside the TravelCenters of America (TA) Truckstop in Rockwall, Texas.⁷ The agents observed Radio Masters offer for sale a used External Radio Frequency Amplifier, Palomar 250. The unit did not have an FCC identification number to confirm that the model had been granted an FCC certification.

III. APPLICABLE LAW AND VIOLATIONS

4. Federal law requires that radio frequency devices must be certified in accordance with the Commission's technical standards before they can be marketed in the United States.⁸ 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."⁹

5. The applicable implementing regulations for Section 302(b) are set forth in Sections 2.803, 2.815, 15.201, and 15.3(o) of the Rules.¹⁰ Specifically, Section 2.803(a) of the Rules provides, in relevant 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.¹¹

Additionally, Section 2.803(g) of the Rules provides in relevant 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.¹²

⁶ See <http://radiomastercbshop.com/main.html?src=%2F#1,0> (last visited July 8, 2013) ("Catering to Truck Drivers Since 1995. We carry a variety of 10 meter & citizen band radios Our repairs have no limits, we can work on any brand of CB, including older models as long as parts can be found. We do full installs of your cb & coax if needed.")

⁷ In addition to the Rockwall location, Radio Masters maintains a store in the main building of the Petro Truck Stop in Weatherford, Texas. See <http://radiomastercbshop.com/main.html?src=%2F#4,0> (last visited July 11, 2013).

⁸ See, e.g., *Revision of Part 2 of the Commission's Rules Relating to the Marketing and Authorization of Radio Frequency Devices*, Report and Order, 12 FCC Rcd 4533 (1997).

⁹ 47 U.S.C. § 302a(b).

¹⁰ 47 C.F.R. §§ 2.803, 15.201, 15.3(o).

¹¹ 47 C.F.R. § 2.803(a)(1).

¹² 47 C.F.R. § 2.803(g).

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.”¹³

6. Pursuant to Section 2.815(b) of the Rules, external radio frequency power amplifiers capable of operation on frequencies below 144 MHz may not be offered for sale unless they have first been authorized in accordance with the Commission’s certification procedures.¹⁴

7. The record in this case shows that, on February 14, 2013, Radio Masters offered for sale to customers in Rockwall, Texas an external RF power amplifier that had not been FCC certified. Based on the foregoing evidence, we find that Radio Masters violated Section 302(b) of the Communications Act and Sections 2.803 and 2.815(b) of the Rules by marketing and offering for sale in the United States unauthorized radio frequency devices that do not have valid FCC certifications.¹⁵

8. We also specifically caution Radio Masters that, pursuant to Section 15.201(b) of the Rules,¹⁶ intentional radiators¹⁷ (like CB transmitters) cannot be marketed in the United States or its territories unless they have first been authorized in accordance with the Commission’s certification procedures. In addition, Section 95.409(b) of the Rules states: “You must not make, or have made, any internal modification to a certificated CB transmitter. . . . Any internal modification to a certificated CB transmitter cancels the certification”¹⁸

IV. REQUEST FOR INFORMATION

9. Pursuant to Sections 4(i), 4(j), and 403 of the Communications Act,¹⁹ Radio Masters is directed to provide the information requested in non-public Appendix A hereto within thirty (30) calendar days after the release date of this Citation. The request for information concerns the online store of Radio Masters. A failure to respond in writing, or an inadequate, incomplete, or misleading response, may subject Radio Masters to additional sanctions.²⁰

¹³ 47 C.F.R. § 2.803(e)(4).

¹⁴ 47 C.F.R. § 2.815(b).

¹⁵ 47 U.S.C. § 302a(b); 47 C.F.R. §§ 2.803, 2.815(b).

¹⁶ 47 C.F.R. § 15.201(b).

¹⁷ 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).

¹⁸ 47 C.F.R. § 95.409(b).

¹⁹ 47 U.S.C. §§ 154(i), 154(j), 403.

²⁰ See, e.g., *SBC Communications, Inc., Apparent Liability for Forfeiture*, Forfeiture Order, 17 FCC Rcd 7589, 7599–7600, paras. 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).

IV. RESPONDING TO THIS CITATION

10. In addition to the required information described in paragraph 9 above, Radio Masters 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.

11. If you would like to arrange a teleconference or personal interview, please contact the Dallas Office at (214) 575-6361. The nearest Commission Field Office is located in Dallas, Texas. Such teleconference or interview must take place within thirty (30) calendar days of the date of this 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 12, below.

12. All written communications should be provided to the address below.

Federal Communications Commission
Dallas Office
9330 LBJ Freeway, #1170
Dallas, TX 75243
Re: **EB-FIELDSCR-13-00006850**

13. 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 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).

14. Please be advised that it is a violation of Section 1.17 of the 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.²¹

²¹ 47 C.F.R. § 1.17.

15. 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.

16. If you violate Section 1.17 of the 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.²²

17. 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.

V. FUTURE VIOLATIONS

18. If, after receipt of this Citation, Radio Masters again violates Section 302(b) of the Act or Sections 2.803 or 2.815(b) 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.²³ For instance, the Commission could impose separate forfeitures for each non-certified RF amplifier sold or for each day on which such a device 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.²⁴ In addition, violations of the Communications Act or the Rules also can result in seizure of equipment through *in rem* forfeiture actions,²⁵ as well as criminal sanctions, including imprisonment.²⁶

VI. ORDERING CLAUSES

19. **IT IS ORDERED** that pursuant to Sections 4(i), 4(j), and 403 of the Communications Act, CB Radio Masters, LLC must provide the information requested in Non-Public Appendix A to this Citation and Order. The response to the Request for Information must be provided in the manner indicated herein and must be received by the FCC within thirty (30) calendar days after the release date of this Citation and Order.

²² 47 U.S.C. § 503.

²³ 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 47 C.F.R. § 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.

²⁴ See paragraph 2, *supra*.

²⁵ See 47 U.S.C. § 510.

²⁶ See 47 U.S.C. §§ 401, 501.

20. **IT IS ORDERED** that a copy of this Citation and Order shall be sent both by First Class U.S. Mail and Certified Mail, Return Receipt Requested, to CB Radio Masters, LLC at its address of record.

FEDERAL COMMUNICATIONS COMMISSION

James D. Wells
District Director
South Central Region
Enforcement Bureau