

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

In the Matter of)	
)	File No.: EB-FIELDWR-12-00004542
Town and Country Motel)	
)	Citation No.: C201332920001
Newberg, Oregon)	

CITATION

EXCEEDING SIGNAL LEAKAGE LIMITS IN AERONAUTICAL BANDS

Adopted: January 23, 2013

Released: January 24, 2013

By the Resident Agent, Portland Resident Agent Office, Western 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 Town and Country Motel for failing to notify the Commission before operating a multichannel video programming distributor (MVPD) system with a carrier in the aeronautical radio frequency band, in violation of Section 76.1804 of the Commission's Rules (Rules),² and for exceeding cable signal leakage limits in aeronautical frequency bands in violation of Section 76.605(a)(12) of the Rules.³

2. Town and Country Motel should take immediate steps to come into compliance and to avoid any recurrence of this violations. As explained below and as provided in the Communications Act, future violations of the abovementioned Rule may subject your institution to substantial monetary penalties, seizure of equipment, and criminal sanctions.

II. BACKGROUND

3. On September 25, 2012, an agent from the Enforcement Bureau's Portland Office (Portland Office) conducted an investigation and found that the Town and Country Motel, located at 1864 Portland Road, Newberg, Oregon, utilized a non-cable MVPD system at its facility. The agent also found that the Town and Country Motel MVPD system was using an aeronautical frequency, but had not filed FCC Form 321 to notify the Commission of its operation in the aeronautical band. The agent further found that the Town and Country Motel's MVPD system was emitting a radio carrier signal above allowed limits on frequency bands utilized by aeronautical services. At the time of the investigation, the Portland agent conducted field strength measurements on the aeronautical frequency 133.2625 MHz over three meters from a MVPD equipment rack located near a hallway of the Town and Country Motel. The

¹ 47 U.S.C. § 503(b)(5).

² 47 C.F.R. § 76.1804.

³ 47 C.F.R. § 76.605(a)(12).

agent measured an emission of 1800 microvolts per meter.

III. APPLICABLE LAW AND VIOLATIONS

4. The Rules provide that cable and non-cable MVPDs 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 carried 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, Section 76.605(a)(12) of the Rules.⁴ Town and Country Motel was required to comply with this Rule because the MVPD system at its property in Newberg, Oregon, transmits a carrier 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 76.605(a)(12) of the Rules provides that “[a]n 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 the investigation, an FCC agent from the Portland Office conducted field strength measurements on the frequency 133.2625 MHz over three meters from a MVPD equipment rack located near a hallway of the Town and Country Motel, and measured an emission of 1800 microvolts per meter, which exceeds the field strength allowed on that frequency by the Rules.

6. 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.”⁶ At the time of the investigation, Town and Country Motel was using a frequency in the aeronautical band, but had not notified the Commission as required.

IV. REQUEST FOR INFORMATION

7. Pursuant to sections 4(i), 4(j), and 403 of the Act,⁷ Town and Country Motel is directed to provide the information specified herein, within twenty (20) days after the release date of this Citation.

- a. Descriptions of the specific action(s) that have been taken to correct the violation and preclude recurrence. Include a time line for completion of pending corrective action(s).

⁴ 47 C.F.R. § 76.610.

⁵ 47 C.F.R. § 76.605(a)(12).

⁶ 47 C.F.R. § 76.1804.

⁷ 47 U.S.C. §§ 154(i), 154(j), 403.

V. FUTURE COMPLIANCE

8. If, after receipt of this Citation, Town and Country Motel violates the Act or the Rules by engaging in conduct of the type described herein, the Commission may impose monetary forfeitures for any single act.⁸ In addition, violations of the Act or the Rules can result in seizure of equipment through *in rem* forfeiture actions, as well as criminal sanctions, including imprisonment.⁹

9. Town and Country Motel may respond to this Citation within twenty (20) 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 Town and Country Motel to ensure that it does not violate the Rules governing signal leakage limits in the future. Please reference file number EB-FIELDWR-12-00004542 when corresponding with the Commission.

10. 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.¹⁰ Any knowingly or willfully false statement, or concealment of any material fact, made in reply to this Citation is punishable by fine or imprisonment.¹¹ Please also note that Section 1.17 of the Rules requires that you provide truthful and accurate statements to the Commission.¹²

VI. CONTACT INFORMATION

11. The closest FCC Office is the Seattle District Office in Kirkland, Washington. You may contact Agent Binh Nguyen by telephone, (360) 696-6707, to schedule a personal interview, which must take place within twenty (20) days after the release date of this Citation. You should send any written statement within twenty (20) days after the release date of this Citation to: Federal Communications Commission, Portland Resident Agent Office, P.O. Box 61469, Vancouver, Washington 98666.

12. 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).

⁸ 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.

⁹ See 47 U.S.C. § 510.

¹⁰ See Privacy Act of 1974, 5 U.S.C. § 552a(e)(3).

¹¹ See 18 U.S.C. § 1001 *et seq.*

¹² 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.”)

VII. ORDERING CLAUSES

13. **IT IS ORDERED** that a copy of this Citation shall be sent both by First Class U.S. Mail and Certified Mail to Townand Country Motel at 1864 Portland Road, Newberg, Oregon 97132.

FEDERAL COMMUNICATIONS COMMISSION

Binh Nguyen
Resident Agent
Portland Resident Agent Office
Western Region
Enforcement Bureau