

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

In the Matter of)	
)	
Directlink, LLC)	File No: EB-FIELDWR-12-00002815
)	NAL/Acct. No.: 201332800001
Parker, Colorado)	FRN: 0020233508

MEMORANDUM OPINION AND ORDER

Adopted: March 12, 2015

Released: March 13, 2015

By the Deputy Chief, Enforcement Bureau:

I. INTRODUCTION

1. We grant in part and deny in part the Petition for Reconsideration filed by Directlink, LLC (Directlink), operator of an Unlicensed National Information Infrastructure (U-NII) transmission system in Elizabeth, Colorado, seeking reconsideration of the Forfeiture Order issued by the Enforcement Bureau. In the Forfeiture Order, the Enforcement Bureau imposed a forfeiture of \$20,000 against Directlink for operating an intentional radiator without a license and in a manner inconsistent with Part 15 of the Commission's rules (Rules). While we affirm that Directlink's unauthorized operation of its U-NII system interfered with weather radar used by the Federal Aviation Administration (FAA) and violated the Rules, we reduce the forfeiture imposed to \$10,000 in conformance with recent Commission precedent concerning these types of violations.

II. BACKGROUND

2. On February 21, 2014, the Enforcement Bureau issued a Forfeiture Order finding that Directlink violated Sections 301 and 302(b) of the Communications Act of 1934, as amended (Act),¹ and Sections 15.1(b) and 15.1(c) of the Rules,² by operating an intentional radiator without a license and in a manner inconsistent with Part 15 of the Rules³ and the device's equipment authorization.⁴ The Forfeiture Order imposed a \$20,000 penalty on Directlink.⁵ As discussed in the *Forfeiture Order*, Directlink neither denied that it operated the U-NII transmission system in question nor that it was the source of interference to

¹ 47 U.S.C. §§ 301, 302a(b).

² 47 C.F.R. § 15.1(b)–(c).

³ 47 C.F.R. §§ 15.1 *et seq.*

⁴ 47 C.F.R. §§ 15.1, 15.407. *See Directlink, LLC*, Forfeiture Order, 29 FCC Rcd 1809 (Enf. Bur. 2014) (Forfeiture Order). As detailed in the Forfeiture Order, agents from the Enforcement Bureau's Denver Office determined that Directlink's U-NII system caused interference to the FAA Terminal Doppler Weather Radar (TDWR) serving the Denver International Airport. *Id.* at 1809–10, para. 2. Directlink's U-NII system utilized a transceiver module, model Rocket M5, manufactured by Ubiquiti Networks, Inc. *Id.* The FCC Equipment Authorization for the Rocket M5 transceiver limits the device to operations within a frequency range of 5745 MHz to 5825 MHz. *Id.* However, Directlink's U-NII system operated on frequency 5630 MHz. *Id.*

⁵ *Id.* at 1816, para. 13.

the FAA's TDWR system at the Denver International Airport.⁶ In its Petition, Directlink argues that the forfeiture assessed is inconsistent with other forfeitures assessed for the same violation.⁷

III. DISCUSSION

3. Petitions for Reconsideration are granted only in limited circumstances. Pursuant to Section 405 of the Act⁸ and Section 1.106 of the Rules,⁹ reconsideration is appropriate only where the petitioner either demonstrates a material error or omission in the underlying order, or raises additional facts not known or not existing until after the petitioner's last opportunity to present such matters.¹⁰ A Petition for Reconsideration that reiterates arguments that were previously considered and rejected will be denied.¹¹

4. Subsequent to the issuance of the proposed forfeiture in this proceeding,¹² the Commission issued the *Towerstream NAL*, which involved the operation of numerous unlicensed U-NII systems that caused harmful interference to multiple TDWR installations following repeated Commission warnings.¹³ The *Towerstream NAL* applied a \$10,000 base forfeiture for the unlicensed operation of a U-NII system and upwardly adjusted the proposed forfeiture against Towerstream because the violations were intentional, caused substantial harm to TDWR systems, and followed multiple prior violations.¹⁴ Applying a similar approach here, we find that Directlink engaged in unlicensed operation of a U-NII transmission system that caused substantial harm to a TDWR installation, warranting an upward forfeiture adjustment.¹⁵ However, we also find that a forfeiture reduction is warranted in light of Directlink's previously demonstrated history of compliance with the Rules.¹⁶ In addition, Directlink's unlawful operations ceased after it received a warning from Commission staff and did not result in malicious interference to U.S. Government communications.¹⁷ Taking into account the adjustment factors detailed

⁶ *Id.* at 1812, para. 8.

⁷ See *Directlink, LLC*, Petition for Reconsideration (filed Mar. 21, 2014) (Petition); Supplement (filed Oct. 7, 2014) (Petition Supplement). Directlink also argues that its changing financial condition makes it unable to afford the assessed forfeiture. See Petition at 2–3; Petition Supplement at 1–2. However, the financial information provided by Directlink fails to demonstrate that it lacked the ability to pay the forfeiture. See Forfeiture Order, 29 FCC Rcd 1815–16, para. 12 (explaining the criteria required to support an inability to pay claim).

⁸ 47 U.S.C. § 405.

⁹ 47 C.F.R. § 1.106.

¹⁰ See 47 C.F.R. § 1.106(c); *EZ Sacramento, Inc.*, Memorandum Opinion and Order, 15 FCC Rcd 18257, 18257, para. 2 (Enf. Bur. 2000) (citing *WWIZ, Inc.*, Memorandum Opinion and Order, 37 FCC 685, 686 (1964), *aff'd sub. nom. Lorain Journal Co. v. FCC*, 351 F.2d 824 (D.C. Cir. 1965), *cert. denied*, 383 U.S. 967 (1966)); see also *Ely Radio, LLC*, Memorandum Opinion and Order, 27 FCC Rcd 7608, 7610, para. 6 (Enf. Bur. 2012) (articulating the standard of review for Petitions for Reconsideration).

¹¹ *EZ Sacramento, Inc.*, 15 FCC Rcd at 18257, para. 2.

¹² *Directlink, LLC*, Notice of Apparent Liability for Forfeiture and Order, 28 FCC Rcd 37 (Enf. Bur. 2013).

¹³ *Towerstream Corp.*, Notice of Apparent Liability for Forfeiture and Order, 28 FCC Rcd 11604 (2013) (*Towerstream NAL*) (proposing \$202,000 forfeiture where violator continued to operate U-NII devices without a license after multiple warnings and willfully caused harmful interference to U.S. Government communications).

¹⁴ *Id.* at 11613–14, paras. 28–31.

¹⁵ See Forfeiture Order, 29 FCC Rcd at 1812, para. 8 (finding that Directlink's operations “caused interference to FAA TDWR radar, which, given the obvious public safety concern, meets the criteria of substantial harm”).

¹⁶ *Id.* at 1816, para. 13.

¹⁷ *Id.* at 1810, para. 2; see 47 U.S.C. § 333 (prohibiting malicious interference to any radio communications of any station operated by the U.S. Government).

in Section 503(b)(2)(E) of the Act¹⁸ and to conform the forfeiture assessed against Directlink to the Commission's approach in the *Towerstream NAL*, we grant Directlink's Petition in part and reduce the forfeiture to \$10,000.

IV. ORDERING CLAUSES

5. Accordingly, **IT IS ORDERED**, pursuant to Section 405 of the Act and Section 1.106 of the Rules,¹⁹ that the Petition for Reconsideration filed by Directlink, LLC, **IS GRANTED IN PART AND DENIED IN PART**.

6. **IT IS ALSO ORDERED** that, pursuant to Section 503(b) of the Act and Sections 0.111, 0.311, and 1.80(f)(4) of the Rules, Directlink, LLC, **IS LIABLE FOR A MONETARY FORFEITURE** in the amount of ten thousand dollars (\$10,000) for violations of Sections 301 and 302(b) of the Act and Sections 15.1(b) and 15.1(c) of the Rules.²⁰

7. Payment of the forfeiture shall be made in the manner provided for in Section 1.80 of the Rules within thirty (30) calendar days after the release date of this Memorandum Opinion and Order.²¹ If the forfeiture is not paid within the period specified, the case may be referred to the U.S. Department of Justice for enforcement of the forfeiture pursuant to Section 504(a) of the Act.²² Directlink, LLC, shall send electronic notification of payment to WR-Response@fcc.gov on the date said payment is made.

8. The payment must be made by check or similar instrument, wire transfer, or credit card, and must include the NAL/Account Number and FRN referenced above. Regardless of the form of payment, a completed FCC Form 159 (Remittance Advice) must be submitted.²³ When completing the FCC Form 159, enter the Account Number in block number 23A (call sign/other ID) and enter the letters "FORF" in block number 24A (payment type code). Below are additional instructions that should be followed based on the form of payment selected:

- Payment by check or money order must be made payable to the order of the Federal Communications Commission. Such payments (along with the completed Form 159) must be mailed to Federal Communications Commission, P.O. Box 979088, St. Louis, MO 63197-9000, or sent via overnight mail to U.S. Bank – Government Lockbox #979088, SL-MO-C2-GL, 1005 Convention Plaza, St. Louis, MO 63101.
- Payment by wire transfer must be made to ABA Number 021030004, receiving bank TREAS/NYC, and Account Number 27000001. To complete the wire transfer and ensure appropriate crediting of the wired funds, a completed Form 159 must be faxed to U.S. Bank at (314) 418-4232 on the same business day the wire transfer is initiated.
- Payment by credit card must be made by providing the required credit card information on FCC Form 159 and signing and dating the Form 159 to authorize the credit card payment. The completed Form 159 must then be mailed to Federal Communications Commission, P.O.

¹⁸ 47 U.S.C. § 503(b)(2)(E).

¹⁹ 47 U.S.C. § 405; 47 C.F.R. § 1.106.

²⁰ 47 U.S.C. §§ 301, 302a(b), 503(b); 47 C.F.R. §§ 0.111, 0.311, 1.80(f)(4), 15.1(b)–(c).

²¹ 47 C.F.R. § 1.80.

²² 47 U.S.C. § 504(a).

²³ An FCC Form 159 and detailed instructions for completing the form may be obtained at <http://www.fcc.gov/Forms/Form159/159.pdf>.

Box 979088, St. Louis, MO 63197-9000, or sent via overnight mail to U.S. Bank – Government Lockbox #979088, SL-MO-C2-GL, 1005 Convention Plaza, St. Louis, MO 63101.

9. Any request for making full payment over time under an installment plan should be sent to: Chief Financial Officer—Financial Operations, Federal Communications Commission, 445 12th Street, S.W., Room 1-A625, Washington, D.C. 20554.²⁴ If you have questions regarding payment procedures, please contact the Financial Operations Group Help Desk by phone, 1-877-480-3201, or by e-mail, ARINQUIRIES@fcc.gov.

10. **IT IS FURTHER ORDERED** that this Memorandum Opinion and Order shall be sent by both First Class Mail and Certified Mail, Return Receipt Requested, to Directlink, LLC, 43217 London Drive, Parker, Colorado, 80138, and to its counsel, Eric J. Cecil, Esquire, Sourcelaw, PC, 9769 W. 119th Dr., Suite 32, Broomfield, Colorado, 80021.

FEDERAL COMMUNICATIONS COMMISSION

William Davenport
Deputy Chief
Enforcement Bureau

²⁴ See 47 C.F.R. § 1.1914.