

Before the
Federal Communications Commission
Washington, DC 20554

In the Matter of
Ravi's Import Warehouse, Inc.,
Dallas, Texas
File No.: EB-FIELDSCR-17-00024142
NAL/Acct. No.: 201732500001
FRN: 0026514281

MEMORANDUM OPINION AND ORDER

Adopted: December 15, 2020

Released: December 15, 2020

By the Deputy Chief, Enforcement Bureau:

I. INTRODUCTION

1. The Commission's rules ban the use of signal jamming devices by consumers. Such devices pose serious risks to public safety as they can block 911 and other emergency calls. Jammers also prevent consumers and businesses from engaging in numerous daily forms of communication including simple one-on-one phone conversations and the use of social media applications. Accordingly, the Commission takes seriously cases in which a private company uses a jamming device to block cellular calls to and from its commercial warehouse.

2. In furtherance of preventing these risks and disruptions, we deny the Petition for Reconsideration (Petition)1 of Ravi's Import Warehouse, Inc., (Ravi's or Company) seeking reconsideration of a Forfeiture Order issued by the Enforcement Bureau (Bureau).2 In the Forfeiture Order, the Bureau imposed a forfeiture penalty of \$22,000 against the Company for operating a signal jammer in its commercial establishment in Dallas, Texas, in violation of sections 301, 302(b), and 333 of the Communications Act of 1934, as amended (Act),3 and sections 2.805 and 15.1(c) of the Commission's rules.4

3. Upon review of the Petition and the entire record, we find no basis for reconsideration. Reconsideration is appropriate only when 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.5 Ravi's Petition fails to present any facts or arguments warranting reconsideration.

1 Ravi's Import Warehouse, Inc., Petition for Reconsideration (May 29, 2018) (on file in EB-FIELDSCR-17-00024142) (Petition).

2 Ravi's Import Warehouse, Inc., Dallas, Texas, Forfeiture Order, 33 FCC Rcd 3913 (EB 2018) (Forfeiture Order), aff'g, Notice of Apparent Liability for Forfeiture, 32 FCC Rcd 5606 (EB 2017) (Notice). The Notice and Forfeiture Order include more complete discussions of the facts and history of this case and are incorporated herein by reference.

3 47 U.S.C. §§ 301, 302a(b), and 333.

4 47 CFR §§ 2.805 and 15.1(c).

5 See 47 CFR § 1.106(c); EZ Sacramento, Inc., Memorandum Opinion and Order, 15 FCC Rcd 18257, 18257, para. 2 (EB 2000) (citing WWIZ, Inc., Memorandum Opinion and Order, 37 FCC Rcd 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 (EB 2012) (articulating the standard of review for Petitions for Reconsideration).

II. BACKGROUND

4. *Legal Framework.* Federal law prohibits the operation of signal jammers in the United States and its territories. Section 301 of the Act prohibits the use or operation of “any apparatus for the transmission of energy or communications or signals by radio” within the United States unless such use is licensed or authorized.⁶ Section 333 of the Act states that “[n]o person shall willfully or maliciously interfere with or cause interference to any radio communications of any station licensed or authorized by or under this chapter or operated by the United States Government.”⁷ In addition, 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.”⁸ The regulations implementing section 302(b) of the Act are codified in sections 2.805, and 15.1(c), of the Commission’s rules, which state that radio frequency devices must be authorized by the Commission before operation.⁹ Jamming devices cannot be certified or authorized because their primary purpose is to block or interfere with authorized radio communications and, therefore, their use would compromise the integrity of the nation’s communications infrastructure. Thus, jamming devices such as the one used by Ravi’s cannot comply with the Commission’s technical standards and cannot be operated lawfully by consumers in the United States or its territories.¹⁰

5. *Factual Background.* On April 10, 2017, an agent from the Bureau’s Dallas Field Office responded to a complaint from an AT&T representative asserting that an AT&T base station was receiving interference from what appeared to be a jamming device. The AT&T representative separately, and using his own equipment, determined that the jammer was likely located within Ravi’s commercial establishment. After arriving at the Company’s location, the agent spoke with Anita Bhatia (Bhatia), who stated that she was the owner of Ravi’s. Bhatia admitted to the agent that Ravi’s used a signal jammer and did so as a means of preventing its employees from using mobile phones while at work. She also acknowledged that, in February 2017, the AT&T representative had warned her adult son against the operation of a signal jammer. Bhatia further stated that she disposed of the jammer shortly before the agent’s arrival. Bhatia declined to voluntarily retrieve and surrender the device to the agent, and she also refused to identify the specific dumpster in which she disposed of the device. Instead, Bhatia offered to sell the signal jammer to the agent. The agent declined the offer and issued a Notice of Unlicensed Radio Operation informing Ravi’s that the operation of a signal jammer is illegal.¹¹

6. On July 26, 2017, the Bureau issued the *Notice*, proposing a \$22,000 forfeiture against Ravi’s for its apparent willful violation of sections 301, 302(b), and 333 of the Act and sections 2.805(a) and 15.1(c) of the Commission’s rules stemming from its operation of a signal jammer. The forfeiture included a \$10,000 fine for operation without an instrument of authorization, a \$7,000 fine for causing interference to authorized communications, and a \$5,000 upward adjustment for egregious conduct.¹² On August 21, 2017, Ravi’s submitted a response to the *Notice*.¹³ In the Notice Response, Ravi’s affirmed the core facts establishing that it violated the Act and the Commission’s rules but argued that the Bureau misapplied relevant law and Commission precedents in proposing a \$22,000 monetary forfeiture.¹⁴ On

⁶ 47 U.S.C. § 301.

⁷ *Id.* § 333.

⁸ *Id.* § 302a(b) (emphasis added).

⁹ See 47 CFR §§ 2.805, 15.1(c).

¹⁰ See 47 U.S.C. §§ 301, 302a(b), 333; 47 CFR §§ 2.805, 15.1(c).

¹¹ *Forfeiture Order*, 33 FCC Rcd at 3913-3914, para. 2; *Notice*, 32 FCC Rcd at 5607, para. 3.

¹² See *Forfeiture Order*, 33 FCC Rcd at 3916, para. 8.

¹³ Ravi’s Import Warehouse, Inc., Response to Notice of Apparent Liability for Forfeiture (Aug. 21, 2017) (on file in EB-FIELDSCR-17-00024142) (Notice Response).

¹⁴ Notice Response at 1-2.

April 26, 2018, after considering and rejecting Ravi's arguments in the Notice Response, the Bureau issued the *Forfeiture Order* imposing a \$22,000 penalty.¹⁵

7. On May 29, 2018, Ravi's filed the Petition. The Petition does not dispute that Ravi's violated the Act and the Commission's rules by operating a jamming device.¹⁶ Instead, it argues for a reduction or elimination of the forfeiture, claiming that the company has a history of compliance, the company surrendered the jamming device, and the owner of the Company never offered to sell the jamming device to the agent.¹⁷

III. DISCUSSION

8. The Bureau issued a forfeiture in this case in accordance with section 503(b) of the Act,¹⁸ section 1.80 of the Commission's rules,¹⁹ and the Commission's *Forfeiture Policy Statement*.²⁰ When we assess forfeitures, section 503(b)(2)(E) requires that we take into account the "nature, circumstances, extent, and gravity of the violation and, with respect to the violator, the degree of culpability, any history of prior offenses, ability to pay, and such other matters as justice may require."²¹ We have fully considered the Petition, which admits the Company operated a signal jammer but raises legal and factual arguments contesting the forfeiture amount,²² but we find none of them persuasive. We therefore affirm the \$22,000 forfeiture assessed in the *Forfeiture Order*.²³

A. Section 1.106 of the Commission's Rules Procedurally Bars the Bureau from Granting a Petition Based on the New Arguments and Facts Raised in the Petition.

9. Section 1.106(c) of the Commission's rules authorizes the Bureau to grant a petition for reconsideration that relies on new facts or arguments only if those facts or arguments relate to events that have occurred, or circumstances that have changed, since the last opportunity to present such matters; or when the petition relies on facts or arguments unknown to the petitioner until after his last opportunity to present those facts or arguments.²⁴

10. Ravi's arguments in the Petition are either based on new facts or new arguments not found in the Notice Response, and the Company does not assert any exception or circumstance in the Petition that would allow their introduction.²⁵ Specifically, Ravi's raises one new factual dispute and makes several new arguments for forfeiture reduction²⁶ arguing that (1) the Company has a history of

¹⁵ See *Forfeiture Order*, 33 FCC Rcd at 3916, para. 8.

¹⁶ See Petition at 1-2.

¹⁷ See *id.* at 3-5.

¹⁸ 47 U.S.C. § 503(b).

¹⁹ 47 CFR § 1.80.

²⁰ *The Commission's Forfeiture Policy Statement and Amendment of Section 1.80 of the Commission's rules to Incorporate the Forfeiture Guidelines*, Report and Order, 12 FCC Rcd 17087 (1997) (*Forfeiture Policy Statement*), *recons. denied*, Memorandum Opinion and Order, 15 FCC Rcd 303 (1999).

²¹ 47 U.S.C. § 503(b)(2)(E).

²² See generally Petition.

²³ Any entity that is a "Small Business Concern" as defined in the Small Business Act (Pub. L. 85-536, as amended) may avail itself of rights set forth in that Act, including rights set forth in 15 U.S.C. § 657, "Oversight of Regulatory Enforcement," in addition to other rights set forth herein.

²⁴ 47 CFR § 1.106(c).

²⁵ See Notice Response at 1-2.

²⁶ The Petition does not raise any of the arguments made in the Notice Response.

compliance with the Commission's rules,²⁷ (2) the Company throwing the jamming device in the dumpster is the legal equivalent of voluntary relinquishing the illegal jamming device,²⁸ and (3) the owner of the Company never offered to sell the jamming device to the agent.²⁹ Because the Company could have raised these new facts and arguments in the Notice Response but did not,³⁰ we dismiss them as procedurally barred and deny the Company's request for a forfeiture reduction.

B. No Forfeiture Reduction is Warranted on the Merits

11. Even if we were to consider these new facts and arguments, we would find they lack merit. *First*, the Company argues its alleged history of compliance with the Commission's rules merits a forfeiture reduction citing several Enforcement and Media Bureau precedents.³¹ All of the cases cited by the Company, however, involved licensees or authorization holders who had an affirmative recorded history of complying with Commission rules.³² Ravi's, however, does not have a history of compliance; rather, as a non-licensee/authorization holder, it does not have any history with the Commission at all and, thus, we find no basis for a forfeiture reduction based on a history of compliance.³³

12. *Second*, Ravi's argues for a 25% forfeiture reduction for voluntarily relinquishing the jamming device when Bhatia allegedly disposed of the jammer in a trash dumpster.³⁴ Generally, when the Commission has granted a forfeiture reduction for the voluntary relinquishment of a jamming device, it has been because relinquishment immediately and conclusively removes such devices from the stream of commerce and prevents any future unlawful advertising or sale in the secondary market.³⁵ That did not happen here. Ravi's argues that "it is not contested that Ravi's and Ms. Bhatia have disposed of the jamming unit."³⁶ This statement is inaccurate. The record reflects that Bhatia told the agent that the device was disposed of in a dumpster, but the agent never saw the jamming device in the dumpster or elsewhere.³⁷ Thus, it was impossible for the agent to determine whether Bhatia had in fact disposed of the jamming device rather than merely turning it off.³⁸ Because there is insufficient evidence in the record to show that the jamming device was relinquished or otherwise permanently disposed of, we find that no reduction in the forfeiture amount is warranted on that basis.

²⁷ See Petition at 3.

²⁸ See *id.* at 3-4.

²⁹ See *id.* at 4-5.

³⁰ See 47 CFR § 1.106(c)(2).

³¹ See Petition at 3.

³² For example, in one of the cited cases, the subject of the investigation, Argos Net, is not a Commission licensee, but as a wireless internet service provider, is obligated to comply with certain Commission rules including the requirement to file FCC Form 477 twice a year.

³³ Moreover, the warning to Bhatia's adult son regarding the use of a jamming device in February 2017 casts doubt on the Company's assertion that it has never previously violated the Commission's rules. See *Forfeiture Order*, 33 FCC Rcd at 3914, para. 2; *Notice*, 32 FCC Rcd at 5607, para. 3.

³⁴ See Petition at 3-4.

³⁵ See *R&N Mfg., Ltd. Houston, Texas*, Notice of Apparent Liability, 29 FCC Rcd 3332, 3337, para. 13 (2014).

³⁶ Petition at 3.

³⁷ See *Forfeiture Order*, 33 FCC Rcd at 3914, para. 2 ("Ms. Bhatia refused to voluntarily retrieve and surrender the device to the agent, and she also refused to identify the specific dumpster in which she disposed of the device."). Moreover, the Company's version of events does not allege that the agent ever saw the device. See Petition at 4 (stating that the agent did not go into a dumpster to try to find the jamming device).

³⁸ Moreover, Ravi's has not cited a single case in which a forfeiture was reduced for relinquishment in which the Commission or one of its agents did not take actual possession of the jamming device.

13. Finally, the Company disputes that Bhatia offered to sell the jamming device to the agent and, therefore, argues that the Commission should eliminate the \$5,000 upward adjustment.³⁹ We see no reason, however, to doubt the agent's recollection recorded on the day of the violation. Conversely, Ravi's statement regarding the offer for sale of the jamming device has changed from the Notice Response to the Petition. In the Notice Response, Ravi's only disputed that the agent asked Bhatia to retrieve the jamming device from the dumpster.⁴⁰ It did not, however, dispute Bhatia's offer to sell the device to the agent as it now does in the Petition.⁴¹ Moreover, while it now disputes there was an offer, the Company also states in the Petition that in light of Bhatia experiencing both difficult personal circumstances and the "shock and surprise" of the investigation, "[a]nything said during the investigation out of confusion, anger, or impatience, should justifiably by [sic] viewed in the context of a person who was not in any way aware of FCC processes and procedures."⁴² Thus, we are not persuaded that the Company's newly alleged facts⁴³—introduced more than a year after the violation and not in accord with the Company's previous statement—outweigh the agent's records from the day of the violation. We, therefore, deny Ravi's request to rescind the *Forfeiture Order's* \$5,000 upward adjustment.

14. Weighing the relevant statutory factors and our own forfeiture guidelines, we conclude that the forfeiture of \$22,000 properly reflects the seriousness, duration, and scope of the Company's violations.

IV. ORDERING CLAUSES

15. Accordingly, **IT IS ORDERED** that, pursuant to section 405 of the Act and section 1.106 of the Commission's rules, the Petition for Reconsideration filed by Ravi's Import Warehouse, Inc. is hereby **DENIED**.⁴⁴

16. **IT IS FURTHER ORDERED** that, pursuant to section 503(b) of the Act and sections 0.111, 0.311, and 1.80 of the Commission's rules,⁴⁵ Ravi's Import Warehouse, Inc. **IS LIABLE FOR A MONETARY FORFEITURE** of twenty-two thousand dollars (\$22,000) for willfully violating sections 301, 302(b), and 333 of the Act,⁴⁶ and sections 2.805(a) and 15.1(c) of the Commission's rules.⁴⁷

17. Payment of the forfeiture shall be made in the manner provided for in section 1.80 of the Commission's rules within thirty (30) calendar days after the release of this Memorandum Opinion and Order.⁴⁸ 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.⁴⁹

³⁹ See Petition at 4-5.

⁴⁰ See Notice Response at 1.

⁴¹ See Petition at 4.

⁴² *Id.* at 5 (emphasis in original).

⁴³ The Petition also poses a hypothetical situation in which Bhatia did offer to sell the agent the jamming device, arguing that it would have been "empty rhetoric" made in the heat of the moment and not a serious offer. See Petition at 4-5. We make no determination on the validity of this hypothetical argument and set of facts which the Company asserts did not happen. See Petition at 4 ("At no time did Ms. Bhatia's literally or seriously offer to 'sell the signal jammer to the agent[.]'").

⁴⁴ 47 U.S.C. § 405; 47 CFR § 1.106.

⁴⁵ 47 U.S.C. § 503(b); 47 CFR §§ 0.111, 0.311, 1.80.

⁴⁶ 47 U.S.C. §§ 301, 302a(b), 333.

⁴⁷ 47 CFR §§ 2.805, 15.1(c).

⁴⁸ 47 CFR § 1.80.

⁴⁹ 47 U.S.C. § 504(a).

18. Ravi's Import Warehouse, Inc, shall send electronic notification of payment to the Office of the Field Director, Enforcement Bureau, Federal Communications Commission, at field@fcc.gov and David Marks, Field Counsel, at david.marks@fcc.gov on the date said payment is made. Payment of the forfeiture must be made by credit card, ACH (Automated Clearing House) debit from a bank account using the Commission's Fee Filer (the Commission's online payment system),⁵⁰ or by wire transfer. The Commission no longer accepts forfeiture payments by check or money order. Below are instructions that payors should follow based on the form of payment selected:⁵¹

- Payment by wire transfer must be made to ABA Number 021030004, receiving bank TREAS/NYC, and Account Number 27000001. A completed Form 159 must be faxed to the Federal Communications Commission at 202-418-2843 or e-mailed to RROGWireFaxes@fcc.gov on the same business day the wire transfer is initiated. Failure to provide all required information in Form 159 may result in payment not being recognized as having been received. When completing FCC Form 159, enter the Account Number in block number 23A (call sign/other ID), enter the letters "FORF" in block number 24A (payment type code), and enter in block number 11 the FRN(s) captioned above (Payor FRN).⁵² For additional detail and wire transfer instructions, go to <https://www.fcc.gov/licensing-databases/fees/wire-transfer>.
- Payment by credit card must be made by using the Commission's Fee Filer website at <https://apps.fcc.gov/FeeFiler/login.cfm>. To pay by credit card, log-in using the FRN captioned above. If payment must be split across FRNs, complete this process for each FRN. Next, select "Pay bills" on the Fee Filer Menu, and select the bill number associated with the Notice Account—the bill number is the Notice Account number with the first two digits excluded—and then choose the "Pay by Credit Card" option. Please note that there is a \$24,999.99 limit on credit card transactions.
- Payment by ACH must be made by using the Commission's Fee Filer website at <https://apps.fcc.gov/FeeFiler/login.cfm>. To pay by ACH, log in using the FRN captioned above. If payment must be split across FRNs, complete this process for each FRN. Next, select "Pay bills" on the Fee Filer Menu and then select the bill number associated to the Notice Account—the bill number is the Notice Account number with the first two digits excluded—and choose the "Pay from Bank Account" option. Please contact the appropriate financial institution to confirm the correct Routing Number and the correct account number from which payment will be made and verify with that financial institution that the designated account has authorization to accept ACH transactions.

19. Any request for making full payment over time under an installment plan should be sent to: Chief Financial Officer – Financial Operations, Federal Communications Commission, 45 L Street, NE, Washington, DC 20554.⁵³ Questions regarding payment procedures should be directed to the Financial Operations Group Help Desk by telephone, 1-877-480-3201, or by e-mail, ARINQUIRIES@fcc.gov.

⁵⁰ Payments made using the Commission's Fee Filer system do not require the submission of FCC Form 159.

⁵¹ For questions regarding payment procedures, please contact the Financial Operations Group Help Desk by phone at 1-877-480-3201 (option #6), or by e-mail at ARINQUIRIES@fcc.gov.

⁵² Instructions for completing the form may be obtained at <https://www.fcc.gov/Forms/Form159/159.pdf>.

⁵³ See 47 CFR § 1.1914.

20. **IT IS FURTHER ORDERED** that a copy of this Memorandum Opinion and Order shall be sent by first-class and certified mail, return receipt requested, to Ravi's Import Warehouse, Inc., Attn: Anita Bhatia, 11029 Harry Hines Boulevard, Dallas, Texas 75229 and to Daniel J. Alpert, Esq., 2120 N. 21st Rd. Arlington, VA 22201.

FEDERAL COMMUNICATIONS COMMISSION

Christopher L. Killion
Deputy Chief
Enforcement Bureau