

Before the
Federal Communications Commission
Washington, DC 20554

In the Matter of)
)
Amendment of Section 1.80 of the Commission's)
Rules)
)
Implementing Section 2 of the Preventing Illegal)
Radio Abuse Through Enforcement Act)
(PIRATE Act)

ERRATUM

Released: April 2, 2021

By the Chief, Enforcement Bureau, and the Managing Director:

On December 17, 2020, the Enforcement Bureau and the Managing Director jointly released Order, DA 20-1490, in the above captioned proceeding.1 To conform to the publishing conventions of the National Archives and Records Administration's Office of the Federal Register, this Erratum amends Section 1.80 in the Appendix of the Order as indicated below:

1. Paragraphs 1 and 2 are corrected to read as follows:

"1. The authority citation for part 1 is revised to read as follows:

Authority: 47 U.S.C. chs. 2, 5, 9, 13; 28 U.S.C. 2461 note, unless otherwise noted.

2. Amend § 1.80 as follows:

- a. Revising paragraph (a)(4);
b. Redesignating paragraphs (a)(5) and (6) as paragraphs (a)(6) and (7) and adding a new paragraph (a)(5);
c. Revising newly redesignated paragraph (a)(6);
d. Redesignating the Note to paragraph (a) as Note 1 to paragraph (a);
e. Redesignating paragraphs (b)(6) through (10) as paragraphs (b)(7) through (11) and adding a new paragraph (b)(6);
f. Revising newly redesignated paragraphs (b)(9) and (10);
g. Removing the Note to paragraph (b)(8) following newly redesignated paragraph (b)(10);
h. Revising the heading of the table in newly redesignated paragraph (b)(11)(ii);
i. Revising the Note following newly redesignated paragraph (b)(11);
j. Revising the introductory text to paragraph (d); and
k. Redesignating paragraphs (e) through (j) as paragraphs (f) through (k) and adding a new paragraph (e)."

1 Amendment of Section 1.80 of the Commission's Rules, Implementing Section 2 of the Preventing Illegal Radio Abuse Through Enforcement Act (PIRATE Act), Order, 35 FCC Rcd 14591 (EB 2020), 86 Fed. Reg. 15796 (Mar. 25, 2021).

3. Paragraphs (a)(4) and (5) are corrected to read as follows:

“(a) * * *

(4) Violated any provision of sections 227(b) or (e) of the Communications Act or of §§ 64.1200(a)(1) through (5) and 64.1604 of this title;

(5) Violated any provision of section 511(a) or (b) of the Communications Act or of paragraph (b)(6) of this section;”

4. Paragraph (b)(6)(i) is corrected to read as follows:

“(6) *Forfeiture penalty for pirate radio broadcasting.*

(i) Any person who willfully and knowingly does or causes or suffers to be done any pirate radio broadcasting shall be subject to a fine of not more than \$2,023,640; and (ii) Any person who willfully and knowingly violates the Act or any rule, regulation, restriction, or condition made or imposed by the Commission under authority of the Act, or any rule, regulation, restriction, or condition made or imposed by any international radio or wire communications treaty or convention, or regulations annexed thereto, to which the United States is party, relating to pirate radio broadcasting shall, in addition to any other penalties provided by law, be subject to a fine of not more than \$101,182 for each day during which such offense occurs, in accordance with the limit described in this section.”

5. Paragraph (b)(9) is corrected to read as follows:

“(9) *Maximum forfeiture penalty for any case not previously covered.* In any case not covered in paragraphs (b)(1) through (8) of this section, the amount of any forfeiture penalty determined under this section shall not exceed \$20,731 for each violation or each day of a continuing violation, except that the amount assessed for any continuing violation shall not exceed a total of \$155,485 for any single act or failure to act described in paragraph (a) of this section.”

6. Paragraph (b)(10) is corrected to read as follows:

“(10) * * *

Table 1 to Paragraph (b)(10)—Base Amounts for Section 503 Forfeitures

Forfeitures	Violation amount
Misrepresentation/lack of candor	(¹)
Construction and/or operation without an instrument of authorization for the service	\$10,000
Failure to comply with prescribed lighting and/or marking	10,000
Violation of public file rules	10,000
Violation of political rules: Reasonable access, lowest unit charge, equal opportunity, and discrimination	9,000
Unauthorized substantial transfer of control	8,000
Violation of children's television commercialization or programming requirements	8,000
Violations of rules relating to distress and safety frequencies	8,000
False distress communications	8,000
EAS equipment not installed or operational	8,000
Alien ownership violation	8,000
Failure to permit inspection	7,000

Transmission of indecent/obscene materials	7,000
Interference	7,000
Importation or marketing of unauthorized equipment	7,000
Exceeding of authorized antenna height	5,000
Fraud by wire, radio or television	5,000
Unauthorized discontinuance of service	5,000
Use of unauthorized equipment	5,000
Exceeding power limits	4,000
Failure to respond to Commission communications	4,000
Violation of sponsorship ID requirements	4,000
Unauthorized emissions	4,000
Using unauthorized frequency	4,000
Failure to engage in required frequency coordination	4,000
Construction or operation at unauthorized location	4,000
Violation of requirements pertaining to broadcasting of lotteries or contests	4,000
Violation of transmitter control and metering requirements	3,000
Failure to file required forms or information	3,000
Failure to make required measurements or conduct required monitoring	2,000
Failure to provide station ID	1,000
Unauthorized pro forma transfer of control	1,000
Failure to maintain required records	1,000

¹ Statutory Maximum for each Service.

Table 2 to Paragraph (b)(10)—Violations Unique to the Service

Violation	Services affected	Amount
Unauthorized conversion of long distance telephone service	Common Carrier	\$40,000
Violation of operator services requirements	Common Carrier	7,000
Violation of pay-per-call requirements	Common Carrier	7,000
Failure to implement rate reduction or refund order	Cable	7,500
Violation of cable program access rules	Cable	7,500
Violation of cable leased access rules	Cable	7,500
Violation of cable cross-ownership rules	Cable	7,500
Violation of cable broadcast carriage rules	Cable	7,500
Violation of pole attachment rules	Cable	7,500
Failure to maintain directional	Broadcast	7,000

pattern within prescribed parameters		
Violation of broadcast hoax rule	Broadcast	7,000
AM tower fencing	Broadcast	7,000
Broadcasting telephone conversations without authorization	Broadcast	4,000
Violation of enhanced underwriting requirements	Broadcast	2,000

Table 3 to Paragraph (b)(10)—Adjustment Criteria for Section 503 Forfeitures

Upward Adjustment Criteria:

- (1) Egregious misconduct.
- (2) Ability to pay/relative disincentive.
- (3) Intentional violation.
- (4) Substantial harm.
- (5) Prior violations of any FCC requirements.
- (6) Substantial economic gain.
- (7) Repeated or continuous violation.

Downward Adjustment Criteria:

- (1) Minor violation.
- (2) Good faith or voluntary disclosure.
- (3) History of overall compliance.
- (4) Inability to pay.

Table 4 to Paragraph (b)(10)—Non-Section 503 Forfeitures That Are Affected by the Downward Adjustment Factors ¹

Violation	Statutory amount after 2021 annual inflation adjustment
Sec. 202(c) Common Carrier Discrimination	\$12,439, \$622/day.
Sec. 203(e) Common Carrier Tariffs	\$12,439, \$622/day.
Sec. 205(b) Common Carrier Prescriptions	\$24,877.
Sec. 214(d) Common Carrier Line Extensions	\$2,487/day.
Sec. 219(b) Common Carrier Reports	\$2,487/day.
Sec. 220(d) Common Carrier Records & Accounts	\$12,439/day.
Sec. 223(b) Dial-a-Porn	\$128,904/day.
Sec. 227(e) Caller Identification	\$11,905/violation. *\$35,715/day for each day of continuing violation, up to \$1,190,546 for any single act or failure to act.
Sec. 364(a) Forfeitures (Ships)	\$10,366/day (owner).
Sec. 364(b) Forfeitures (Ships)	\$2,074 (vessel master).
Sec. 386(a) Forfeitures (Ships)	\$10,366/day (owner).

Sec. 386(b) Forfeitures (Ships)	\$2,074 (vessel master).
Sec. 511 Pirate Radio Broadcasting	\$2,023,640, \$101,182/day.
Sec. 634 Cable EEO	\$919/day.

¹ Unlike section 503 of the Act, which establishes maximum forfeiture amounts, other sections of the Act, with two exceptions, state prescribed amounts of forfeitures for violations of the relevant section. These amounts are then subject to mitigation or remission under section 504 of the Act. One exception is section 223 of the Act, which provides a maximum forfeiture per day. For convenience, the Commission will treat this amount as if it were a prescribed base amount, subject to downward adjustments. The other exception is section 227(e) of the Act, which provides maximum forfeitures per violation, and for continuing violations. The Commission will apply the factors set forth in section 503(b)(2)(E) of the Act and this table 4 to determine the amount of the penalty to assess in any particular situation. The amounts in this table 4 are adjusted for inflation pursuant to the Debt Collection Improvement Act of 1996 (DCIA), [28 U.S.C. 2461](#). These non-section 503 forfeitures may be adjusted downward using the “Downward Adjustment Criteria” shown for section 503 forfeitures in table 3 to this paragraph (b)(10).

7. Below paragraph number (10), replace “Note to Paragraph (b)(10)” with “Note 2 to paragraph (b)(10).”

8. Below paragraph (b)(11)(ii), replace “TABLE 1 to PARAGRAPH (b)(11)(ii)” with “Table 5 to Paragraph (b)(11)(ii).”

9. Below the 5 asterisks, under new title “Table 5 to Paragraph (b)(11)(ii),”, replace “Note to Paragraph (b)(11)” with “Note 3 to Paragraph (b)(11).”

10. Paragraphs (d) and (e) are corrected to read as follows:

“(d) *Preliminary procedure in some cases; citations.* Except for a forfeiture imposed under sections 227(b), 227(e)(5), 511(a), and 511(b) of the Act, no forfeiture penalty shall be imposed upon any person under the preceding sections if such person does not hold a license, permit, certificate, or other authorization issued by the Commission, and if such person is not an applicant for a license, permit, certificate, or other authorization issued by the Commission, unless, prior to the issuance of the appropriate notice, such person:

* * * * *

(e) *Preliminary procedure in Preventing Illegal Radio Abuse Through Enforcement Act (PIRATE Act) cases.*”

FEDERAL COMMUNICATIONS COMMISSION

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