

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

In the Matter of
Ride208, LLC
File No.: EB-SED-21-00032091

CITATION

UNAUTHORIZED EQUIPMENT MARKETING AND
FAILURE TO RESPOND TO A COMMISSION ORDER

Adopted: October 12, 2022

Released: October 12, 2022

By the Division Chief, Enforcement Bureau:

I. NOTICE OF CITATION

1. This CITATION notifies Ride208, LLC (Ride208) that it unlawfully marketed an unauthorized radio frequency device and failed to respond to a Federal Communications Commission (Commission or FCC) order. Specifically, the Company advertised and sold the Ride208 radio, which permitted operation on communications channels for both the Family Radio Service (FRS) and General Mobile Radio Service (GMRS) in violation of section 302(b) of the Communications Act of 1934, as amended (Act), and sections 2.803, 95.361, 95.391, 95.561, 95.587, 95.591, 95.1761, 95.1787, and 95.1791 of the Commission’s rules.1 We further notify Ride208 that it has violated federal law by failing to provide complete responses to an FCC Letter of Inquiry sent on March 31, 2021 and by failing to support its responses with a sworn declaration or affidavit.2 We direct Ride208 to take immediate steps to refrain from the importation, distribution, and offering for sale noncompliant radio frequency (RF) devices in the future. If Ride208 fails to comply with these laws, it may be liable for significant fines of up to \$22,021 per day for each violation of unauthorized marketing or each day of a continuing violation for each unauthorized model marketed and up to \$165,159 for any single act or failure to act, as well as other sanctions.3

2. Notice of Duty to Comply with the Law: We issue this Citation pursuant to section 503(b)(5) of the Act, which states that the Commission may not impose monetary forfeitures against non-regulatees who violate Commission rules or the Act unless and until: (a) the Commission issues a citation to the violator; (b) the Commission provides the violator a reasonable opportunity to respond; and (c) the

1 47 U.S.C. § 302a(b); 47 CFR §§ 2.803, 95.361, 95.391, 95.561, 95.587, 95.591, 95.761, 95.1787, 95.1791.

2 Letter of Inquiry from JoAnn Lucanik, Deputy Chief, Spectrum Enforcement Division, FCC Enforcement Bureau, to Jason Brown, Owner, Ride208, LLC (Mar. 31, 2021) (on file in EB-SED-21-00032091) (LOI); Response to Letter of Inquiry from Jason Brown, Owner, Ride208, LLC, to Kevin Pittman, Attorney Advisor, Spectrum Enforcement Division, FCC Enforcement Bureau (May 15, 2021) (LOI Response) (on file in EB-SED-21-00032091).

3 See 47 U.S.C. § 503(b)(2)(D); 47 CFR § 1.80(b)(9). The forfeiture amounts stated here, which became effective upon publication in the Federal Register, reflect the current annual inflation adjustments to the forfeiture amounts originally specified in section 503(b)(2) of the Act. Amendment of Section 1.80(b) of the Commission’s Rules, Adjustment of Civil Monetary Penalties to Reflect Inflation, Order, DA 21-1631 (EB 2021) (2022 Inflation Adjustment Order); FCC Annual Adjustment of Civil Monetary Penalties to Reflect Inflation, 87 Fed. Reg. 396 (Jan. 5, 2022). The 2015 Inflation Adjustment Act provides that the new penalty levels shall apply to penalties assessed after the effective date of the increase, “including [penalties] whose associated violation predated such increase[.]” See Pub. L. No. 114-74, § 701, 129 Stat. 584, 599 (2015) (2015 Inflation Adjustment Act).

violator subsequently engages in conduct described in the citation.<sup>4</sup> Accordingly, Ride208 is hereby on notice that it must comply with all of the Commission's equipment marketing rules, including section 302(b) of the Act and sections 2.803, 95.361, 95.391, 95.561, 95.587, 95.591, 95.1761, 95.1787, and 95.1791 of the Commission's rules, and that it must fully respond to Commission orders.<sup>5</sup> If Ride208 subsequently engages in any conduct of the type this Citation describes—any violation of section 302(b) of the Act and/or the Commission's equipment marketing rules, including sections 2.803, 95.361, 95.391, 95.561, 95.587, 95.591, 95.1761, 95.1787, and 95.1791 of the Commission's rules or any failure to respond to a Commission order—Ride208 may be subject to civil penalties, including but not limited to, substantial monetary forfeitures. In assessing such forfeitures, the Commission may consider both the conduct that led to this Citation and the conduct following it.<sup>6</sup>

## II. BACKGROUND

3. To best accommodate the diversity of radio communication needs, the Commission allocates radio frequency spectrum and creates different radio services, each with different operating parameters. The Commission also implements an equipment certification process designed to ensure that radio frequency devices that intentionally emit radio waves meet various operating requirements, including power levels, operating frequency bands, and channel bandwidth.

4. The General Mobile Radio Service<sup>7</sup> and the Family Radio Service<sup>8</sup> offer short-range, low-power radio services on shared frequency bands, with distinct power limits. A handheld GMRS radio is allowed to transmit at up to five Watts (dependent upon the specific frequencies utilized),<sup>9</sup> while a FRS radio is limited to a maximum of two Watts.<sup>10</sup> Prior to December of 2017, radios capable of operating under both GMRS and FRS services could be lawfully marketed under the Commission's rules, however, the Commission notified retailers and manufacturers in 2017 that it would cease authorizing combination GMRS/FRS radios as of December 17, 2017 and would prohibit the marketing of all combination GMRS/FRS radios after September 30, 2019.<sup>11</sup> Combination radios that permit operation on

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<sup>4</sup> See 47 U.S.C § 503(b)(5).

<sup>5</sup> 47 U.S.C. § 302a(b); 47 CFR §§ 2.803, 95.361, 95.391, 95.561, 95.587, 95.591, 95.1761, 95.1787, 95.1791. The equipment marketing rules are found throughout Chapter 1 of Title 47 of the Code of Federal Regulations, including parts 2, 15, 18, and 95. The Act imposes liability on any person who willfully or repeatedly fails to comply with a Commission rule or order. See 47 U.S.C. § 503(b)(1)(B).

<sup>6</sup> See 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).

<sup>7</sup> GMRS is “[a] mobile two-way voice communication service, with limited data applications, for facilitating activities of individual licensees and their family members, including, but not limited to, voluntary provision of assistance to the public during emergencies and natural disasters.” 47 CFR § 95.1703. An individual GMRS license is required to operate a radio on any GMRS frequency. See *id.* §§ 95.305(a), 95.1705.

<sup>8</sup> FRS is “[a] short-distance two-way voice communication service, with limited data applications, between low power hand-held radios, for facilitating individual, family, group, recreational and business activities.” *Id.* § 95.503. FRS radio operation is generally licensed by rule; that is, it is intended to be operated by anyone, and in most cases, no individual FCC license is required. See *id.* § 95.305.

<sup>9</sup> Mobile, hand-held portable, and base GMRS stations may transmit on the 462 MHz interstitial channels at up to five Watts, while transmission on the 467 MHz interstitial channels must not exceed 0.5 Watt. See *id.* § 95.1767(b)-(c).

<sup>10</sup> “Each FRS transmitter type must be designed such that the effective radiated power (ERP) on channels 8 through 14 does not exceed 0.5 Watts and the ERP on channels 1 through 7 and 15 through 22 does not exceed 2.0 Watts.” *Id.* § 95.567.

<sup>11</sup> See *Review of the Commission's Part 95 Personal Radio Services Rules, Petition for Rulemaking of Garmin International, Inc. Petition for Rulemaking of Omnitronics, L.L.C.*, WT Docket No. 10-119, Report and Order, 32 FCC Rcd 4292, 4316, para. 59 (2017) (*Part 95 Review Order*).

both FRS frequencies and a licensed radio service, such as the GMRS, present the potential for unlicensed consumers to unwittingly disrupt the licensed radio service.<sup>12</sup>

5. We remind retailers to ensure that the devices they market comply with the relevant equipment marketing rules before they are advertised or imported for sale within the United States.<sup>13</sup>

6. Ride208 is a small business based in Idaho that markets a single RF device, the Ride208 two-way handheld radio, and related accessories.<sup>14</sup> The Spectrum Enforcement Division (Division) of the Enforcement Bureau received a complaint alleging that the Ride208 radio was actually an unauthorized combination GMRS/FRS radio. In response to this complaint, the Division issued the Company a letter of inquiry (LOI) regarding whether the device complied with our equipment authorization and labeling requirements.<sup>15</sup> The LOI directed the Company to state whether the RF device had been properly labeled with an FCC identifier (FCC ID), tested, and certified under the Commission's rules and, if so, whether the device operated within the technical parameters of its certification. The LOI further directed the Company to provide information regarding its marketing of the device, including marketing through any retail affiliates.<sup>16</sup> Ride208 did not provide complete responses to certain inquiries, and its response was not supported by an affidavit, as required by the LOI.<sup>17</sup> The Division issued a Letter of Incomplete Response on February 16, 2022 that directed the Company to supply the missing information within seven days.<sup>18</sup> The Company failed to provide the missing information, failed to provide an affidavit for its LOI Response, and failed to respond to the Incomplete Response Letter.

### III. APPLICABLE LAW AND VIOLATIONS

#### A. Ride208 Engaged in Unauthorized Equipment Marketing

7. The Communications Act and the Commission's rules require that most radio frequency devices be properly authorized, identified, and labeled before they can be marketed in the United States. Section 302(b) of the Act states 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."<sup>19</sup> Section 2.803(b) of the Commission's rules provides that:

No person may market a radio frequency device unless . . . [f]or devices subject to authorization under certification, the device has been authorized in accordance with the rules in subpart J of this chapter and is properly

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<sup>12</sup> See *Part 95 Review Order*, 32 FCC Red at 4312, para. 51 (noting that unlicensed GMRS/FRS combination radio users are unlikely to know the channel assignments and rule requirements for licensed radio services).

<sup>13</sup> A valid FCC identifier must be prominently displayed on equipment that requires certification and signals that the device is capable of compliance with the applicable technical standards. See 47 CFR §§ 2.925, 2.926, 2.927. An overview of the equipment authorization process is available on the FCC's Office of Engineering and Technology web page at <https://www.fcc.gov/engineering-technology/laboratory-division/general/equipment-authorization> (last visited Sept. 6, 2022).

<sup>14</sup> See Response to Letter of Inquiry from Jason Brown, Owner, Ride208, LLC, to Kevin Pittman, Attorney Advisor, Spectrum Enforcement Division, FCC Enforcement Bureau, at 1, Response to Inquiries 3, 12 (May 15, 2021) (on file in EB-SED-21-00032091).

<sup>15</sup> Letter of Inquiry from JoAnn Lucanik, Deputy Chief, Spectrum Enforcement Division, FCC Enforcement Bureau, to Jason Brown, Owner, Ride208, LLC (Mar. 31, 2021) (on file in EB-SED-21-00032091).

<sup>16</sup> See LOI at 3, Inquiry 8.

<sup>17</sup> See LOI Response at 6, Filing Requirements.

<sup>18</sup> See Incomplete Response Letter from Elizabeth Y. Mumaw, Chief, Spectrum Enforcement Division, FCC Enforcement Bureau, to Jason Brown, Owner, Ride208, LLC (Feb. 16, 2022) (Incomplete Response Letter) (on file in EB-SED-21-00032091).

<sup>19</sup> 47 U.S.C. § 302a(b).

identified and labeled as required by § 2.925 and other relevant sections in this chapter.<sup>20</sup>

Likewise, sections 95.561 and 95.1761 of the Commission's rules state, respectively, that FRS and GMRS radios must be certified, and no radio will be certified that fails to comply with the Commission's rules.<sup>21</sup>

8. In 2017, the Commission revised the Part 95 Personal Radio Services (PRS) rules, which include the GMRS and the FRS, to prohibit new equipment certifications of combination GMRS/FRS radios, reclassify existing combination radios to fall exclusively within the FRS or GMRS, and prohibit the future marketing of combination GMRS/FRS radios.<sup>22</sup> Section 95.361 provides that a transmitter operating in the PRS must be certified.<sup>23</sup> Section 95.561 of the Commission's rules provides that, after December 27, 2017, no new equipment authorization would be granted "for hand-held portable radio units capable of operating under both this subpart (FRS) and under any other subparts of this chapter . . . ."<sup>24</sup> Section 95.1761 likewise provides, "[e]ffective December 27, 2017, the Commission will no longer issue a grant of equipment authorization for hand-held portable unit transmitter types under both this subpart (GMRS) and subpart B of this part (FRS)."<sup>25</sup>

9. Combination GMRS/FRS radios that were authorized under the prior rules were reclassified as either a GMRS radio or an FRS radio, exclusively, based on the operational characteristics of the device. Those GMRS/FRS combination radios that operate with a power level at or below two Watts of effective radiated power (ERP) and in accordance with the revised FRS rules were reclassified as FRS radios.<sup>26</sup> GMRS/FRS combination radios capable of operating on the shared GMRS/FRS frequencies with a higher power than the FRS rules permit, and/or capable of operating on the 467 MHz GMRS main channels, were reclassified as GMRS radios.<sup>27</sup> Section 95.567 states that "[e]ach FRS transmitter type must be designed such that the effective radiated power (ERP) on channels 8 through 14 does not exceed 0.5 Watts and the ERP on channels 1 through 7 and 15 through 22 does not exceed 2.0 Watts."<sup>28</sup>

10. The 2017 revised rules also prohibited the marketing of combination GMRS/FRS radios after a two-year transition period.<sup>29</sup> Section 95.391 of the Commission's rules provides, "[n]o person shall manufacture, import, sell, or offer for sale non-certified equipment for the Personal Radio Services," except as otherwise provided for in the rules.<sup>30</sup> Section 95.591 of the Commission's rules provides, "[e]ffective September 30, 2019, no person shall sell or offer for sale hand-held portable radio equipment capable of operating under this subpart (FRS) and under any other licensed or licensed-by-rule radio services in this chapter (devices may be authorized under this subpart with part 15 unlicensed equipment

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<sup>20</sup> 47 CFR § 2.803(b). "Marketing, as used in this section, includes 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." *Id.* § 2.803(a).

<sup>21</sup> *See id.* §§ 95.561, 95.1761.

<sup>22</sup> *See generally Part 95 Review Order.*

<sup>23</sup> 47 CFR § 95.361.

<sup>24</sup> *Id.* § 95.561(c). Though inapplicable to the equipment in this investigation, section 95.561(c) does provide an exception that allows for operation in conjunction with part 15. *Id.*

<sup>25</sup> *Id.* § 95.1761(d).

<sup>26</sup> *Part 95 Review Order*, 32 FCC Rcd at 4312, para. 51.

<sup>27</sup> *Id.*

<sup>28</sup> 47 CFR § 95.567.

<sup>29</sup> *Part 95 Review Order*, 32 FCC Rcd at 4314, para. 55.

<sup>30</sup> 47 CFR § 95.391. The rule lists two exceptions, sections 2.803(c)(2)(i) and 2.1204(a)(11), that are inapplicable to the instant case. *See id.*

authorizations).<sup>31</sup> Section 95.1791 of the Commission's rules likewise provides that no person shall "manufacture or import, sell or offer for sale" any radio capable of operating in accordance with both GMRS and FRS rule provisions after September 30, 2019.<sup>32</sup> Additionally, sections 95.587 and 95.1787 of the Commission's rules provide, respectively for FRS and GMRS radios, that the antenna must be a non-removeable integral part of the device.<sup>33</sup>

**B. The Ride208 Radio is Noncompliant and Unauthorized**

11. Ride208 marketed the Ride208 radio on its website as a 10 Watt handheld, two-way radio that operates on FRS, GMRS, UHF, and VHF frequencies.<sup>34</sup> The Company also sold antennas as an optional accessory for the device.<sup>35</sup> The Ride208 radio was imported from China and manufactured for Ride208 by Po Fung Electronic HK International Group Company, which appears to also manufacture the BaoFeng brand.<sup>36</sup> Ride208 marketed its radio through its own website, as well as through a few local brick and mortar stores.<sup>37</sup> Capable of operation on both FRS and GMRS channels, the Ride208 radio also has "adjustable wattages [capable of] any frequencies programmed."<sup>38</sup> The Company stated it had sold 1180 units between March 2020 and March 2021.<sup>39</sup>

12. Ride208 was unable to show that its radio had been authorized by a grant of equipment certification. However, the Company asserted that the Ride208 radio was identical to the BaoFeng UV82 two-way radio<sup>40</sup> and, in support, provided a copy of BaoFeng/Po Fung's laboratory test report, for which certification was granted under FCC ID 2AJGM-UV82.<sup>41</sup> Ride208 also stated that, after receiving the Division's LOI, it reached out to its distributor Po Fung to "provide the proper information and labeling," i.e., BaoFeng FCC ID labels.<sup>42</sup>

13. After examining the available information and documents, the Division determined that Ride208 marketed the Ride208 radio in violation of section 302(b) of the Act and sections 2.803, 95.361, 95.391, 95.561, 95.587, 95.591, 95.1761, 95.1787, and 95.1791 of the Commission's rules. The LOI response admits to sales over the course of a year of nearly 1,200 Ride208 combination GMRS/FRS 10

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<sup>31</sup> *Id.* § 95.591; *see also id.* § 95.587(e) (prohibiting the manufacture or importation of hand-held portable radio equipment capable of operating under both FRS provisions and any licensed or licensed-by-rule radio service except applicable part 15 provisions).

<sup>32</sup> *Id.* § 95.1791.

<sup>33</sup> *See id.* §§ 95.587, 95.1787.

<sup>34</sup> *See* Ride208, LLC website screenshot (May 6, 2021) (on file in EB-SED-21-00032091). In response to our investigation, Ride208 removed these devices from its website.

<sup>35</sup> *See* LOI Response at 1, Response to Inquiry 12(a).

<sup>36</sup> *See id.* at 1-2, Response to Inquiries 6 and 13. For instance, Po Fung Electronic HK International Group Company holds equipment certifications under Grantee Code 2AJGM. The RF device marketed under FCC Identifier (FCC ID) 2AJGM-UV82 is commonly marketed under the BaoFeng brand, and the laboratory test report on file with the Commission's Equipment Authorization System for this FCC ID identifies both Po Fung and BaoFeng as the brand.

<sup>37</sup> *See id.* at 1, Response to Inquiries 1, 4, and 8.

<sup>38</sup> *Id.* at 1, Response to Inquiry 12(b).

<sup>39</sup> *See id.* at 1-2, Response to Inquiries 12 and 14.

<sup>40</sup> *See id.* at 1-2, Response to Inquiries 6, 12 (referring incorrectly to the FCC ID for the BaoFeng radio as 2AJGM-UB82 and UBB2, respectively), and 14.

<sup>41</sup> *See* E-mail from Jason Brown, Owner, Ride208, LLC, to Kevin Pittman, Attorney Advisor, Spectrum Enforcement Division, FCC Enforcement Bureau (Apr. 26, 2021, 02:56 EDT).

<sup>42</sup> LOI Response at 2, Response to Inquiry 16. Section 2.925 of the Commission's rules requires that a device authorized by certification be labeled with its FCC ID. *See* 47 CFR § 2.925.

Watt radios.<sup>43</sup> Although Ride208 represented that its radio was authorized as the BaoFeng UV82 (FCC ID 2AJGM-UV82), which was certified in 2018,<sup>44</sup> pursuant to sections 95.391, 95.561, and 95.1761 of the Commission's rules, no device capable of operation under both GMRS and FRS Rules could be authorized after December 27, 2017.<sup>45</sup> Because the Ride208 radio could be operated at 10 Watts of power on all channels,<sup>46</sup> it would be ineligible for authorization as an FRS radio under the Commission's rules because it exceeds the 2 Watt threshold.<sup>47</sup> Moreover, and regardless of its transmission power, the device cannot meet the applicable technical standards for authorization because it features a detachable antenna, which is prohibited for both GMRS and FRS radios.<sup>48</sup> Furthermore, pursuant to sections 95.591 and 95.1791 of the Commission's rules, the marketing of combination GMRS/FRS radios has been prohibited since September 30, 2019,<sup>49</sup> several months before Ride208 first marketed the Ride208 radio in March of 2020.<sup>50</sup> Accordingly, Ride208 marketed a combination two-way radio that was noncompliant, unauthorized, and incapable of being authorized, in violation of section 302(b) of the Act and sections 2.803, 95.361, 95.391, 95.561, 95.587, 95.591, 95.1761, 95.1787, and 95.1791 of the Commission's rules.<sup>51</sup>

### C. Ride208 Failed to Respond to a Commission Order

14. Ride208 failed to completely respond to the Division's LOI and did not file a response to the Division's Incomplete Response Letter. Sections 4(i), 4(j), and 403 of the Act<sup>52</sup> afford the Commission broad authority to investigate potential violations of the Act. Section 4(i) authorizes the Commission to "issue such orders, not inconsistent with this [Act], as may be necessary in the execution of its functions."<sup>53</sup> Section 4(j) states that "[t]he Commission may conduct its proceedings in such manner as will best conduce to the proper dispatch of business and to the ends of justice."<sup>54</sup> Section 403 grants the Commission "full authority and power at any time to institute an inquiry, on its own motion, in any case and as to any matter or thing concerning which complaint is authorized to be made, to or before the Commission by any provision of this [Act], or concerning which any question may arise under any of the provisions of this [Act], or relating to the enforcement of any of the provisions of this [Act]."<sup>55</sup> Furthermore, section 403 also gives "[t]he Commission . . . the power to make and enforce any order or orders" relating to its inquiries into compliance with the Act.<sup>56</sup> An LOI issued by the Division constitutes an order of the Commission.<sup>57</sup> Indeed, the Commission has long held that a party may not ignore the

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<sup>43</sup> See *id.* at 1-2, Response to Inquiries 12 and 14.

<sup>44</sup> See E-mail from Jason Brown, Owner, Ride208, LLC, to Kevin Pittman, Attorney Advisor, Spectrum Enforcement Division, FCC Enforcement Bureau (Apr. 26, 2021, 02:56 EDT).

<sup>45</sup> 47 CFR §§ 95.391, 95.561, 95.1761.

<sup>46</sup> See LOI Response at 1, Response to Inquiry 12(b).

<sup>47</sup> 47 CFR § 95.567.

<sup>48</sup> See *id.* §§ 95.587(b)(1); 95.1787(a)(4).

<sup>49</sup> See *id.* §§ 95.591, 95.1791.

<sup>50</sup> LOI Response at 1, Response to Inquiry 12.

<sup>51</sup> 47 U.S.C. § 302a(b); 47 CFR §§ 2.803(b), 95.361, 95.391, 95.561, 95.587, 95.591, 95.1761, 95.1787, 95.1791.

<sup>52</sup> 47 U.S.C. §§ 154(i), 154(j), 403.

<sup>53</sup> *Id.* § 154(i).

<sup>54</sup> *Id.* § 154(j).

<sup>55</sup> *Id.* § 403.

<sup>56</sup> *Id.*

<sup>57</sup> *Id.* § 155(c)(3).

directives in a Commission order issued by the Bureau in an LOI pursuant to delegated authority.<sup>58</sup> Section 503(b)(1)(B) of the Act authorizes the Commission to impose a forfeiture against any entity that “willfully or repeatedly fail[s] to comply with any of the provisions of [the Act] or of any rule, regulation, or order issued by the Commission[.]”<sup>59</sup>

15. The Division issued an LOI to Ride208 that ordered the Company to provide information and documents relevant to the investigation, including, but not limited to, its reseller arrangements, gross revenue, the date on which marketing ended, and a copy of each document that accompanies a Ride208 radio at the time of marketing.<sup>60</sup> The Company did not provide responsive information regarding those matters. The Company also failed to support its incomplete LOI Response with an attestation that meets the Commission’s requirements.<sup>61</sup> The Company also did not file a response to the letter sent by the Division, which warned the Company that its LOI response was deemed incomplete, laid out the LOI Response deficiencies, and ordered Ride208 to submit the missing information and documents.<sup>62</sup> Accordingly, we find that Ride208 has violated a Commission order by failing to provide all of the information and documents required by the LOI and by failing to respond to the Incomplete Response Letter.<sup>63</sup>

#### IV. OPPORTUNITY TO RESPOND TO THIS CITATION

16. Ride208 may respond to this Citation within 30 calendar days from the release date of this Citation by any of the following methods: (1) a written statement, (2) a teleconference interview, or (3) a personal interview at the Commission Field Office nearest to Ride208’s place of business. The Commission Field Office nearest Ride208 is located in Denver, Colorado.

17. If Ride208 requests a teleconference or personal interview, contact Kevin Pittman at (202) 418-1427 or [kevin.pittman@fcc.gov](mailto:kevin.pittman@fcc.gov) and [EB-SED-Response@fcc.gov](mailto:EB-SED-Response@fcc.gov). We note that such teleconference or interview must take place within 30 calendar days of the release date of this Citation. If Ride208 prefers to submit a written response with supporting documentation, it must send the response within 30 calendar days of the release date of this Citation to the contact and address provided in the paragraph below.

18. All written communications, including any written response to this Citation, should be sent to [kevin.pittman@fcc.gov](mailto:kevin.pittman@fcc.gov) and to [EB-SED-Response@fcc.gov](mailto:EB-SED-Response@fcc.gov), and the subject line of the email should specify the Company name (Ride208, LLC) and its investigation file number, **EB-SED-21-**

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<sup>58</sup> See, e.g., *SBC Commc’ns, Inc.*, Forfeiture Order, 17 FCC Rcd 7589, 7600, para. 28 (2002) (imposing forfeiture for failure to include a statement that attests to the veracity of an LOI response); *Net One Int’l, Net One, LLC, Farrahtel Int’l, LLC*, Forfeiture Order, 29 FCC Rcd 264, 267, para. 9 (EB 2014) (imposing forfeiture for failure to completely respond to an NAL).

<sup>59</sup> 47 U.S.C. § 503(b)(1)(B).

<sup>60</sup> See LOI at 3, 4- 6, Inquiries 8, 14, 17, 21.

<sup>61</sup> 47 CFR § 1.16 (requiring a signed affidavit under penalty of perjury).

<sup>62</sup> See generally, Incomplete Response Letter.

<sup>63</sup> See 47 U.S.C. § 403 (giving the Commission the power to enforce any order relating to its inquires); see also *Net One Int’l, Net One, LLC, Farrahtel Int’l, LLC*, Forfeiture Order, 29 FCC Rcd. 264, 267, para. 9 (EB 2014) (imposing a \$25,000 penalty for failure to respond to LOI); *Conexions, LLC d/b/a Conexion Wireless*, Notice of Apparent Liability for Forfeiture and Order, 28 FCC Rcd 15318, 15325, para. 22 (2013) (proposing a \$300,000 forfeiture for failure to provide timely and complete responses to an LOI); *Technical Commc’n Network, LLC*, Notice of Apparent Liability for Forfeiture and Order, 28 FCC Rcd 1018, 1020, para. 8 (EB 2013) (proposing a \$25,000 forfeiture for failure to provide a complete response to an LOI); *Hauppauge Computer Works, Inc.*, Notice of Apparent Liability for Forfeiture and Order, 23 FCC Rcd 3684, 3688, para. 11 (EB 2008) (proposing an \$11,000 forfeiture for failure to respond to an LOI) (forfeiture paid); *Digital Antenna, Inc.*, Notice of Apparent Liability for Forfeiture and Order, 23 FCC Rcd 7600, 7603, para. 10 (EB 2008) (proposing \$11,000 forfeiture for failure to provide a complete response to an LOI); *SBC Commc’ns, Inc.*, Forfeiture Order, 17 FCC Rcd 7589, 7600, para. 28 (2002) (imposing \$100,000 penalty for failing to submit a sworn written response).

**00032091.** Due to network file size restrictions, the Company should partition the response into separate emails of less than 10MB, including attachments. The Company should seek guidance in sufficient advance of the response deadline if it requires an alternative method of delivery.

19. Upon request, the Commission will make reasonable accommodations for persons with disabilities. If applicable, Ride208 should provide a description of the accommodation required, and include as much detail as possible, and also provide a telephone number and other contact information. Ride208 should allow at least five business days advance notice; last minute requests will be accepted, but may be impossible to fill. Ride208 should send an e-mail to [fcc504@fcc.gov](mailto: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).

20. We advise Ride208 that it is a violation of section 1.17 of the Commission's rules<sup>64</sup> for any person to make any false or misleading written or oral statement of fact to the Commission. 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. 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.<sup>65</sup>

22. Violations of section 1.17 of the Commission's rules or the criminal statute referenced above may result in further legal action, including monetary forfeitures pursuant to section 503 of the Act.

23. Finally, we warn Ride208 that, under the Privacy Act of 1974,<sup>66</sup> Commission staff will use all relevant material information before it, including information disclosed in interviews or written statements, to determine what, if any, enforcement action is required to ensure Ride208's compliance with the Act and the Commission's rules.<sup>67</sup>

## V. FUTURE VIOLATIONS

24. If, after receipt of this Citation, Ride208 again violates section 302 of the Act and/or the Commission's equipment marketing rules, including sections 2.803, 95.361, 95.391, 95.561, 95.587, 95.591, 95.1761, 95.1787, and/or 95.1791 of the Commission's rules by engaging in conduct of the type described herein, or again fails to respond to a Commission order, the Commission may impose monetary forfeitures. For example, the Commission may impose monetary forfeitures not to exceed \$22,021 for

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<sup>64</sup> 47 CFR § 1.17.

<sup>65</sup> 18 U.S.C. § 1001.

<sup>66</sup> 5 U.S.C. § 552a(e)(3).

<sup>67</sup> 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.

each equipment marketing violation or each day of a continuing violation, and up to \$165,159 for any single act or failure to act.<sup>68</sup> The Commission may also impose monetary forfeitures not to exceed \$22,021 for each failure to respond or each day of a continuing failure to respond or violation, and up to \$165,159 for any single failure to respond.<sup>69</sup> In setting the forfeiture, the Commission may take into account statutory factors, which include 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 other such matters as justice may require.<sup>70</sup> Further, as discussed above, the Commission may assess forfeitures on both the conduct that led to this Citation and the conduct following it.<sup>71</sup>

## VI. ORDERING CLAUSES

25. Accordingly, **IT IS ORDERED** that, pursuant to sections 4(i) and 4(j) of the Act,<sup>72</sup> Ride208, LLC must cease and desist from marketing unauthorized radio frequency equipment in violation of section 302(b) of the Communications Act and sections 2.803, 95.361, 95.391, 95.561, 95.587, 95.591, 95.1761, 95.1787, and 95.1791 of the Commission's rules.<sup>73</sup>

26. **IT IS FURTHER ORDERED** that a copy of this Citation and Order shall be sent by first class mail and certified mail, return receipt requested, to Jason Brown, Owner, Ride208 LLC, 529 Raven Way, Apt. B, Pocatello, ID 83202-1967.

FEDERAL COMMUNICATIONS COMMISSION

Elizabeth Y. Mumaw  
Chief  
Spectrum Enforcement Division  
Enforcement Bureau

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<sup>68</sup> See 47 U.S.C. § 503; 47 CFR § 1.80(b). This amount is subject to further adjustment for inflation. See 47 CFR § 1.80(b)(9).

<sup>69</sup> See 47 U.S.C. § 503; 47 CFR § 1.80(b). This amount is subject to further adjustment for inflation. See 47 CFR § 1.80(b)(9).

<sup>70</sup> See 47 U.S.C. § 503(b)(2)(E); 47 CFR § 1.80(b)(10).

<sup>71</sup> See *supra* paragraph 2.

<sup>72</sup> 47 U.S.C. §§ 154(i), 154(j).

<sup>73</sup> 47 U.S.C. § 302a(b); 47 CFR §§ 2.803, 95.361, 95.391, 95.561, 95.587, 95.591, 95.1761, 95.1787, 95.1791.