



FEDERAL COMMUNICATIONS COMMISSION

ENFORCEMENT BUREAU
ATLANTA OFFICE

3575 KOGER BLVD, SUITE 320, DULUTH GA 30096
Telephone (770) 935-3370

May 4, 2004

Appalachia Electronics CB Shop
ATTN: Mr. Gary Linder
615 Watt Road
Knoxville, TN 37992

FILE No.: EB-04-AT-069
Sent via Certified
Return Receipt requested and
First Class mail

CITATION

Citation No.: C200432480002
Released: May 4, 2004

By the Enforcement Bureau, Atlanta Office

1. This is an Official Citation issued pursuant to Section 503(b) of The Communications Act of 1934, as amended ("Act"),¹ to Mr. Gary Linder, owner of Appalachia Electronics CB Shop, Knoxville, Tennessee, for violation of Section 302(b) of the Act,² and Sections 2.803(a)(1) of the Commission's Rules.³

2. An investigation by the FCC's Atlanta Office revealed that on April 27, 2004, you offered for sale at your retail store located at 615 Watt Road, Knoxville, Tennessee, Alabama, four models of non-certified Citizens Band transceivers, namely, three Connex models 3300 HP, and one Galaxy model 66. According to Commission's records, these devices have not received an FCC equipment authorization which is required for Citizens Band transmitters marketed in the United States. Furthermore, these devices bore no FCC equipment authorization labeling that is required for Citizens Band transceivers marketed in the United States.⁴

3. Section 302(b) of the Act provides "{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." Section 2.803(a)(1) of the Rules provides that "...no person shall sell or lease, or offer for sale or lease (including advertising for sale or lease), or import, ship or distribute for the purpose of selling or leasing or offering for sale or lease, any radio frequency device unless: (1) In the case of a device subject to certification, such device has been authorized by the Commission in accordance with the rules in this chapter and is properly identified and labeled..."

4. Additionally, dual use CB and amateur radios of the kind at issue here may not be certificated under the Commission's rules. Section 95.655(a) of the rules states: "... ({CB} Transmitters with frequency capability for the Amateur Radio Services....will not be

¹ 47 U.S.C. § 503(b)(5)

² 47 U.S.C. § 302a(b)

³ 47 C.F.R. § 2.803(a)(1)

⁴ See 47 C.F.R. §§ 95.409(a), 95.655(a) & 2.925(a)

certificated.)” *See also* FCC 88-256, 1988 WL 488084 (August 17, 1988). This clarification was added to explicitly foreclose the possibility of certification of dual use CB and amateur radios, *see id.*, and thereby deter use by CB operators of frequencies allocated for amateur radio use.

5. Furthermore, the Commission has revised Section 2.1204(a)(5)⁵ of its rules to prohibit all marketing and/or offering for sale in the United States of such devices even when the purchaser(s) had provided assurances that the transceivers are being bought solely for export. ALL DOMESTIC MARKETING OF SUCH DEVICES VIOLATES THE COMMUNICATIONS ACT OF 1934, AS AMENDED, AND THE COMMISSION’S RULES.

6. In addition to the marketing of the non-certified transceivers addressed above, Mr. Gary Linder, owner of Appalachia Electronics C.B. Shop, is warned that Section 302(b) and Section 2.815(c)⁶ of the Commission’s Rules requires FCC Type Acceptance or (Certification) of External Radio Frequency Power Amplifiers (or amplifier kits) capable of operation on any frequency or frequencies below 144 MHz. Furthermore, Section 2.815(b)⁷ of the Commission’s Rules prohibits the marketing of External Radio Frequency Power Amplifiers (or amplifier kits) capable of operation on any frequency or frequencies between 24 and 35 MHz.

7. Subsequent violations of the Communications Act or of the Commission’s Rules may subject the violator to substantial monetary forfeitures not to exceed \$11,000 for each such violation or each day of a continuing violation⁸, seizure of equipment through *in rem* forfeiture action, and criminal sanctions including imprisonment.⁹

8. Mr. Gary Linder may request a personal interview at the closest FCC location to its place of business¹⁰, namely:

Federal Communications Commission
3575 Koger Blvd., Suite 320
Duluth, GA 30096

which can be contacted by telephone at XXX XXX-XXXX. Any written statement should specify what actions have been taken to correct the violation outlined above. When corresponding with the Commission, case number EB-04-AT-069 and Citation number C200432480002 should be referenced.

⁵ 47 C.F.R. § 2.1204(a)(5) revised effective February 28, 2000

⁶ 47 C.F.R. § 2.815(c)

⁷ 47 C.F.R. § 2.815(b)

⁸ *See* 47 C.F.R. § 1.80(b)(3)

⁹ *See* 47 U.S.C. §§ 401, 501, 503, 510

¹⁰ *See* 47 U.S.C. § 503(b)(5)

9. Any statement or information provided may be used by the Commission to determine if further enforcement action is required.¹¹ Any knowingly or willfully false statement made in reply to this notice is punishable by fine or imprisonment.¹²

FEDERAL COMMUNICATIONS COMMISSION

Fred L. Broce
District Director, Atlanta Office

¹¹ *See* Privacy Act of 1974, 5 U.S.C. § 552a(e)(3)

¹² *See* U.S.C. § 1001