

**Federal Communications Commission**

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

In the Matter of	)	
	)	File No.: EB-09-SD-0058
Clarion Inn	)	
	)	Citation No.: C201032940001
El Centro, California 92243	)	

**CITATION**

**Released:** November 12, 2009

By the District Director, San Diego Office, Western Region, Enforcement Bureau:

1. This is an Official Citation issued pursuant to Section 503(b)(5) of the Communications Act of 1934, as amended (“Act”),<sup>1</sup> to Clarion Inn for violation of Section 76.605(a)(12) of the Commission’s Rules (“Rules”).<sup>2</sup>

2. Investigation by the Enforcement Bureau’s San Diego Office revealed that on September 22, 2009, Clarion Inn utilized a non-cable, multichannel video programming distributor (“MVPD”) system located at 1455 Ocotillo Dr., El Centro, California, which was emitting radio carrier signals above allowed limits on frequency bands utilized by aeronautical services.

3. The Commission’s Rules provide that MVPDs, both cable and non-cable, that transmit carriers with certain characteristics within frequency bands of 108-137 MHz and 225-400 MHz must comply with specific technical requirements delineated in the rules in order to avoid interference to other licensed operations, including aeronautical systems operating in these frequency ranges. Attached are excerpts of many of the relevant rules applicable to such MVPD systems. In particular, Section 76.610 of the Rules provides that all MVPDs (cable and non-cable) transmitting carriers or other signal components carried at an average power level equal to or greater than  $10^{-4}$  watts across a 25 kHz bandwidth in any 160 microsecond period, at any point in the cable distribution system in the frequency bands 108-137 and 225-400 MHz for any purpose must comply with, among others, Sections 76.605(a)(12) and 76.1804.<sup>3</sup> Clarion Inn is required to comply with these rules because its MVPD system at its motel property in El Centro, California, transmits carriers at an average power level equal to or greater than  $10^{-4}$  watts across a 25 kHz bandwidth in any 160 microsecond period and carries signals in the 108-137 MHz aeronautical band.

4. Section 76.605(a)(12) of the Rules delineates the allowable limits on MPVD system signal leakage. Specifically, Section 76.605(a)(12) provides that “[a]s an exception to the general provision requiring measurements to be made at subscriber terminals, and without regard to the type of

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<sup>1</sup> 47 U.S.C. § 503(b)(5).

<sup>2</sup> 47 C.F.R. § 76.605(a)(12).

<sup>3</sup> 47 C.F.R. § 76.610; see attached “Excerpts from 47 U.S.C. Part 76 related to Multichannel Video Programming Distributors.”

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signals carried by the cable television system, signal leakage from a cable television system shall be measured in accordance with the procedures outlined in § 76.609(h) and shall be limited as follows: Over 54 MHz up to and including 216 MHz – 20 micro-volts per meter, measured at 3 meters.”<sup>4</sup> At the time of the inspection, San Diego agents conducted field strength measurements more than three meters from the Clarion Inn property on the frequency 133.2625 MHz and measured an emission of 645 microvolts, which exceeds the field strength allowed on that frequency by the Rules.

5. Violations of the Act or the Commission’s Rules may subject the violator to substantial monetary forfeitures,<sup>5</sup> seizure of equipment through *in rem* forfeiture action, and criminal sanctions, including imprisonment.<sup>6</sup>

6. Clarion Inn may request an interview at the closest FCC Office, which is Federal Communications Commission, 4542 Ruffner Street - Suite 370, San Diego, California 92111.<sup>7</sup> You may contact this office by telephone, (XXX) XXXX-XXXX to schedule this interview, which must take place within 14 days of this Citation. Clarion Inn may also submit a written statement to the above address within 14 days of the date of this Citation. Any written statements should specify what actions have been taken to correct the violations outlined above. Please reference file number EB-09-SD-0058 when corresponding with the Commission.

7. Any statement or information provided by you may be used by the Commission to determine if further enforcement action is required.<sup>8</sup> Any knowingly or willfully false statement made in reply to this Citation is punishable by fine or imprisonment.<sup>9</sup>

8. **IT IS ORDERED** that copies of this Citation shall be sent by First Class U.S. Mail and Certified Mail, Return Receipt Requested to Clarion Inn at its address of record.

### FEDERAL COMMUNICATIONS COMMISSION

William R. Zears Jr.  
District Director  
San Diego District Office  
Western Region  
Enforcement Bureau

Attachment

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<sup>4</sup> 47 C.F.R. § 76.605(a)(12).

<sup>5</sup> 47 C.F.R. § 1.80(b)(3).

<sup>6</sup> 47 U.S.C. §§ 401, 501, 503, 510.

<sup>7</sup> 47 U.S.C. § 503(b)(5).

<sup>8</sup> See Privacy Act of 1974, 5 U.S.C. § 552a(e)(3).

<sup>9</sup> See 18 U.S.C. § 1001 *et seq.*