



**FEDERAL COMMUNICATIONS COMMISSION
ENFORCEMENT BUREAU
SOUTH CENTRAL REGION**

**Atlanta Office
3575 Koger Blvd., Ste. 320
Atlanta, GA 30096**

November 12, 2009

Harris Teeter, Inc.
701 Crestdale Road
Matthews, NC 28105

NOTICE OF UNLICENSED OPERATION

Case Number: EB-09-AT-0054
Document Number: W201032480002

On October 22, 2009, in response to an interference complaint from US Cellular and Verizon Wireless, agents from this office confirmed by direction finding techniques that radio signals on the 824-849 MHz band were emanating from a newly constructed Harris Teeter supermarket on Spartanburg Highway in Hendersonville, NC. The agents, accompanied by the manager of the older Harris Teeter, located across the street, inspected the new Harris Teeter and found a bi-directional amplifier (“BDA”) or signal booster in use.¹ During the inspection, the manager disabled the BDA.

US Cellular and Verizon Wireless have licenses to provide cellular communications in the 824-849 and 869-894 MHz bands. Section 22.383 of the Commission's Rules, which applies to public mobile service licensees like US Cellular and Verizon Wireless, provides that “[l]icensees may install in-building radiation systems without applying for authorization or notifying the FCC, provided that the locations of the in-building radiation systems are within the protected service area of the licensee's authorized transmitter(s) on the same channel or channel block.”² A licensee's authority to install a BDA does not permit a subscriber to install a BDA, unless that subscriber has received explicit authorization from the licensee to do so. In response to an inquiry from an FCC agent, US Cellular and Verizon Wireless reported that they did not provide you authorization to install a BDA.

Operation of radio transmitting equipment without a valid FCC authorization or license is a violation of Section 301 of the Communications Act of 1934, as amended,³ and may subject the responsible parties to substantial monetary forfeitures, *in rem* arrest action against the offending radio equipment, and criminal sanctions including imprisonment.⁴ Because unlicensed operation creates a danger of interference to

¹ Section 22.99 of the Rules defines “signal booster” as a “stationary device that automatically reradiates signals from base transmitters without channel translation, for the purpose of improving the reliability of existing service by increasing the signal strength in dead spots.” 47 C.F.R. § 22.99.

² 47 C.F.R. § 22.383.

³ 47 U.S.C. § 301.

⁴ See 47 U.S.C. §§ 401, 501, 503, 510.

important radio communications services and may subject the operator to severe penalties, this warning emphasizes the importance of complying strictly with these legal requirements.

OPERATION OF THIS PROHIBITED RADIO STATION, AS WELL AS SIMILAR UNAUTHORIZED INSTALLATIONS, MUST NOT RESUME.

You have ten (10) days from the date of this notice to respond with any evidence that you have authority to operate granted by the FCC or have obtained consent from a licensed Common Carrier. To resolve the issues with respect to your authority to operate this device, and pursuant to Section 403 of the Communications Act of 1934, as amended,⁵ provide an explanation as to what has been done to correct the interference issue and to ensure that it will not recur; provide any agreements made with any cellular carrier to operate the system and include any relevant documents. Identify the make, model and serial number of each piece of equipment including the antennas if applicable.

Your response should be sent to the address in the letterhead and reference the listed case and document number. Under the Privacy Act of 1974, 5 U.S.C. § 552a(e)(3), we are informing you that the Commission's staff will use all relevant material information before it to determine what, if any, enforcement action is required to ensure your compliance with FCC Rules. This will include any information that you disclose in your reply.

You may contact this office if you have any questions.

Sincerely,

Douglas G. Miller
District Director
Atlanta Office
South Central Region

Attachments:

Excerpts from the Communications Act of 1934, As Amended
Enforcement Bureau, "Inspection Fact Sheet", July 2003

⁵ 47 U.S.C. § 403.