



**FEDERAL COMMUNICATIONS COMMISSION
ENFORCEMENT BUREAU
SOUTH CENTRAL REGION
Dallas Office
9330 LBJ Freeway, Suite 1170
Dallas, TX 75243**

December 9, 2009

Tim Lusk
dba Triangle Market
Alpine, TX

**NOTICE OF UNAUTHORIZED OPERATION AND
INTERFERENCE TO LICENSED RADIO STATIONS**

Case Number: EB-09-DL-0085
Document Number: W201032500009

On December 1, 2009, in response to a complaint of interference, agents from the Commission's Dallas Office of the Enforcement Bureau, inspected Triangle Market, located at 1500 W Highway 90, Alpine, Texas and observed a radio transmitting device designed to jam licensed cellular radio transmissions in the 824-849 and 869-894 MHz frequency bands as well as other licensed frequency bands in operation. During the inspection you admitted that the unit had been in operation and you disconnected the unit from the power supply.

Persons operating or using radio transmitters must be licensed or authorized by the Commission, pursuant to Section 301 of the Communications Act of 1934, as amended ("Act").¹ In addition, radio transmitting equipment must comply with the Commission's Rules ("Rules").² Section 333 of the Act prohibits willful or malicious interference with any radio communications of any station licensed or authorized by or under the Act or operated by the United States Government.³ In addition, Section 302(b) of the Act, and Section 2.803(a) of the Rules prohibit the manufacture, importation, marketing, sale or operation of devices deliberately designed to jam or disrupt wireless communications.⁴ The Commission has issued two Public Notices specifically stating that the sale and use of transmitters designed to prevent, jam or interfere with the operation of cellular and personal communications service ("PCS") telephones is unlawful.⁵ Section

¹ 47 U.S.C. § 301. The only exception to this licensing requirement is for certain transmitters using or operating at a power level that complies with the standards established in Part 15 of the Commission's rules. 47 C.F.R. §§ 15.1 *et seq.*

² 47 C.F.R. Part 2, Subpart J.

³ 47 U.S.C. § 333.

⁴ 47 U.S.C. § 302a(b); 47 C.F.R. § 2.803(a).

⁵ See *Office of Engineering and Technology and Compliance and Information Bureau Warn Against the Manufacture, Importation, Marketing or Operation of Transmitters Designed to Prevent or Otherwise Interfere with Cellular Radio Communications*. DA 99-2150, released October 12, 1999; *Sale or Use of Transmitters Designed to*

303(n) of the Act also authorizes agents of the Commission to inspect all radio installations to determine compliance with Commission rules.⁶

The operation of the devices utilized by you constitutes a violation of Sections 333, 302(b), and 301 of the Act, as described above.⁷ Such operation may subject you to substantial monetary forfeitures, *in rem* arrest action against the offending radio equipment, and criminal sanctions including imprisonment.⁸ Because unauthorized operation creates a danger of interference to important radio communications services, and may subject the operator to severe penalties, this notice emphasizes the importance of complying strictly with these legal requirements.

OPERATION OF THIS PROHIBITED RADIO TRANSMISSION MUST NOT RESUME.

You may respond with any information you believe relevant to this warning within (10) days from the date of this warning. Your response should be sent to the address in the letterhead and reference the listed case number. Under the Privacy Act of 1974, 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.⁹ This will include any information that you disclose in your reply.

Sincerely,

James D. Wells
District Director
Dallas Office South
Central Region

Attachments:

Excerpts from the Communications Act of 1934, As Amended
Enforcement Bureau, "Inspection Fact Sheet", March 2005

Prevent, Jam or Interfere with Cell Phone Communications is Prohibited in the United States. DA 05-1776, released June 27, 2005.

⁶47 U.S.C. § 303(n).

⁷47 U.S.C. §§ 301, 302a(b), 333. ⁸See 47

U.S.C. §§ 401, 501, 503, 510. ⁹ 5 U.S.C.

§ 552a(e)(3).