

Federal Communications Commission

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

In the Matter of)	
)	
)	
Bearcom Operating)	File No. EB-FIELDWR-13-00006977
Licensee of Station WQQN304)	
Los Angeles, CA)	NOV No. V201332900015

NOTICE OF VIOLATION

Released: March 20, 2013

By the Acting District Director, Los Angeles Office, Western Region, Enforcement Bureau:

1. This is a Notice of Violation (Notice) issued pursuant to Section 1.89 of the Commission’s rules (Rules),¹ to Bearcom Operating (Bearcom), licensee of station WQQN304, Los Angeles, California. Pursuant to Section 1.89(a) of the Rules, issuance of this Notice does not preclude the Enforcement Bureau from further action if warranted, including issuing a Notice of Apparent Liability for Forfeiture for the violations noted herein.²

2. On February 20, 2013, in response to a complaint, agents from the Enforcement Bureau’s Los Angeles Office conducted an inspection of station WQQN304. The inspection revealed that Bearcom programmed two frequencies into their radios that were not permitted by their authorization, 469.3875 and 469.8375. In addition, the license for WQQN304 specified Conventional Radio Service but Bearcom was utilizing Trunked Radio Service. The following violations were observed:

- a. 47 C.F.R. § 90.427(b): “No person shall program into a transmitter frequencies for which the licensee using the transmitter is not authorized.” At the time of inspection, the agents observed that Bearcom had programmed frequencies 469.3875 and 469.8375 into their radios but these frequencies were not covered by a Bearcom license.
- b. 47 C.F.R. § 1.903(a): “*General rule.* Stations in the Wireless Radio Services must be used and operated only in accordance with the rules applicable to their particular service as set forth in this title and with a valid authorization

¹ 47 C.F.R. § 1.89.

² 47 C.F.R. § 1.89(a).

Federal Communications Commission

granted by the Commission under the provisions of this part, except as specified in paragraph (b) of this section.” At the time of inspection, Bearcom was operating a Trunked Radio Service system even though their authorization specified the use of a Conventional Radio Service system.

3. Pursuant to Section 308(b) of the Communications Act of 1934, as amended,³ and Section 1.89 of the Rules, we seek additional information concerning the violations and any remedial actions taken. Therefore, Bearcom Operating, must submit a written statement concerning this matter within twenty (20) days of release of this Notice. The response (i) must fully explain each violation, including all relevant surrounding facts and circumstances, (ii) must contain a statement of the specific action(s) taken to correct each violation and preclude recurrence, and (iii) must include a time line for completion of any pending corrective action(s). The response must be complete in itself and must not be abbreviated by reference to other communications or answers to other notices.⁴

4. In accordance with Section 1.16 of the Rules, we direct Bearcom Operating to support its response to this Notice with an affidavit or declaration under penalty of perjury, signed and dated by an authorized officer of Bearcom Operating with personal knowledge of the representations provided in Bearcom’s response, verifying the truth and accuracy of the information therein,⁵ and confirming that all of the information requested by this Notice which is in the licensee’s possession, custody, control, or knowledge has been produced. To knowingly and willfully make any false statement or conceal any material fact in reply to this Notice is punishable by fine or imprisonment under Title 18 of the U.S. Code.⁶

5. All replies and documentation sent in response to this Notice should be marked with the File No. and NOV No. specified above, and mailed to the following address:

Federal Communications Commission
Los Angeles Office
18000 Studebaker Rd., Rm. 660
Cerritos, California 90703

³ 47 U.S.C. § 308(b).

⁴ 47 C.F.R. § 1.89(c).

⁵ Section 1.16 of the Rules provides that “[a]ny document to be filed with the Federal Communications Commission and which is required by any law, rule or other regulation of the United States to be supported, evidenced, established or proved by a written sworn declaration, verification, certificate, statement, oath or affidavit by the person making the same, may be supported, evidenced, established or proved by the unsworn declaration, certification, verification, or statement in writing of such person Such declaration shall be subscribed by the declarant as true under penalty of perjury, and dated, in substantially the following form . . . : ‘I declare (or certify, verify, or state) under penalty of perjury that the foregoing is true and correct. Executed on (date). (Signature)’.” 47 C.F.R. § 1.16.

⁶ 18 U.S.C. § 1001 *et seq.* See also 47 C.F.R. § 1.17.

Federal Communications Commission

6. This Notice shall be sent to Bearcom Operating at its address of record.

7. The Privacy Act of 1974⁷ requires that we advise you that the Commission will use all relevant material information before it, including any information disclosed in your reply, to determine what, if any, enforcement action is required to ensure compliance.

FEDERAL COMMUNICATIONS COMMISSION

Margaret M. Egler
Acting District Director
Los Angeles Office
Western Region
Enforcement Bureau

⁷ P.L. 93-579, 5 U.S.C. § 552a(e)(3).