

Federal Communications Commission

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

| | | |
|-----------------------------|---|----------------------------------|
| In the Matter of |) | |
| |) | |
| Syncom Media Group, Inc. |) | |
| Licensee of Station KZDN-LD |) | File No.: EB-FIELDWR-19-00028805 |
| |) | |
| Facility ID: 168641 |) | |
| |) | |
| Denver, Colorado |) | |

NOTICE OF VIOLATION

Released: August 27, 2019

By the Regional Director, Region Three, Enforcement Bureau:

1. This is a Notice of Violation (Notice) issued pursuant to section 1.89 of the Commission’s rules¹ to Syncom Media Group, Inc. (Syncom), licensee of low-power television station KZDN-LD serving Denver, Colorado. Pursuant to section 1.89(a) of the Commission’s rules, issuance of this Notice does not preclude the Federal Communications Commission’s (Commission’s) from further action if warranted, including issuing a Notice of Apparent Liability for Forfeiture for the violations noted herein.²

2. On April 3, 2019, an Agent of the Enforcement Bureau’s Denver Office investigated a complaint of radio frequency interference impacting the operations of the Soil Moisture and Ocean Salinity (SMOS) satellite operated by the European Space Agency (ESA). Using radio direction finding equipment, the Agent located emissions in the SMOS band, 1400-1427 MHz, emanating from a tower atop the Lookout Mountain telecommunications site in Golden, Colorado. Upon further investigation and inspection, the Agent observed the following violations:

- a. 47 C.F.R. § 74.703(c): “Interference. (c) It shall be the responsibility of the licensee of a low power TV, TV translator, or TV booster station to correct any condition of interference which results from the radiation of radio frequency energy outside its assigned channel.” At the time of the initial inspection, KZDN-LD was observed emanating radio frequency energy outside of its assigned channel, 470 – 476 MHz, with a third harmonic located at 1410 MHz. The Denver Office subsequently confirmed that KZDN-LD was the source of the SMOS band interference by conducting an on/off test that was coordinated with the ESA during a scheduled satellite pass. When KZDN-LD was turned off, the interference ceased.
- b. 47 C.F.R. § 74.794(a)(2)(iii): “Out of Band Emissions. (iii) Full service mask: (A) The power level of emissions on frequencies outside the authorized channel of operation must be attenuated no less than the following amounts below the average transmitted power within the authorized channel.... More than 6 MHz from the channel edge, emissions must be attenuated no less than 110 dB.” In the application to modify the existing

¹ 47 CFR § 1.89.

² 47 CFR § 1.89(a).

Construction Permit (Minor Modification 0000052172 covering File No. 0000060229)³, KZDN-LD specified, within the Antenna Technical Data section, the “Out-of-Channel Emission Mask” to be Full Service. At the time of the investigation, the KZDN-LD third harmonic was not attenuated from the fundamental by at least 110 dB.

- c. 47 C.F.R. § 73.1620(a): “Program Tests. Upon completion of construction of... (the) station in accordance with the terms of the construction permit, the technical provisions of the application, the rules and regulations and the applicable engineering standards, program tests may be conducted...” At the time of the inspection, KZDN-LD was operating in a manner inconsistent with its authorization. Specifically, KZDN-LD was operating prior to filing for Program Test Authority (PTA) as outlined in the Special Conditions cited in the station’s Construction Permit, which states that “Program tests shall not be commenced under Section 73.1620(a) of the Commissions Rules and may only be started after specific authority is granted by the Commission.”⁴

3. Pursuant to section 308(b) of the Communications Act of 1934, as amended (Act), and section 1.89 of the Commission’s rules, we seek additional information concerning the violations and any remedial actions taken.⁵ Therefore, Syncom 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.⁶

4. In accordance with section 1.16 of the Commission’s rules, we direct Syncom to support its response to this Notice with an affidavit or declaration under penalty of perjury, signed and dated by an authorized officer of Syncom, with personal knowledge of the representations provided in Syncom’s response, verifying the truth and accuracy of the information therein, and confirming that all of the information requested by this Notice which is in Syncom’s possession, custody, control, or knowledge has been produced.⁷ 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.⁸

³ See KZDN-LD Application at File No. 0000060229 (<https://enterpriseefiling.fcc.gov/dataentry/public/tv/draftCopy.html?displayType=html&appKey=25076ff366288fa4016635ea1db819c6&id=25076ff366288fa4016635ea1db819c6&goBack=N>)

⁴ Ibid, see specifically the Authorization generated at this URL.

⁵ 47 U.S.C. 308(b); 47 CFR § 1.89.

⁶ 47 CFR § 1.89(c).

⁷ 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 CFR § 1.16.

⁸ 18 U.S.C. §§ 1001, *et seq.*; *see also* 47 CFR § 1.17.

Federal Communications Commission

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 Regional Office
11331 183rd Street, PMB #365
Cerritos, CA 90703
Email: FIELD@FCC.GOV

6. This Notice shall be sent to Syncom Media Group, Inc., at its address of record, and Syncom's counsel, Peter Tannenwald, FLETCHER, HEALD & HILDREDTH, P.L.C., at 1300 N 17th Street, 11th Floor, Arlington, Virginia 22209.

7. The Privacy Act of 1974⁹ 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

Lark Hadley
Regional Director
Region Three
Enforcement Bureau

⁹ 5 U.S.C. § 552a(e)(3).