

**Federal Communications Commission**

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

In the Matter of	)	
	)	
Major Market Radio, LLC	)	File No.: EB-FIELDWR-21-00032486
Licensee of Station K238AK	)	Facility ID: 147714
Palm Desert, CA	)	FRN: 0025774175
	)	
	)	

**NOTICE OF VIOLATION**

**Released: August 5, 2021**

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 Rules<sup>1</sup> to Major Market Radio LLC. (Major Market Radio), licensee of FM translator station K238AK, 95.5MHz, in Palm Desert, California (Station). Pursuant to section 1.89(a) of the Commission’s 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.<sup>2</sup>

2. On May 25, 2021, an Agent of the Enforcement Bureau’s Los Angeles Office monitored the Station’s transmissions and observed the following violations:

- a. 47 CFR § 74.1234(a)(2), Unattended Operation: “The transmitter shall also be equipped with suitable automatic circuits which will place it in a nonradiating condition in the absence of a signal on the input channel.” The Agent observed that upon loss of audio programming, the Station continued to transmit an un-modulated signal carrier and Radio Data System (RDS) information on the frequency, 95.5 MHz.
- b. 47 CFR § 74.1283(c): “A translator station authorized under this subpart shall be identified by one of the following methods. (1) By arranging for the primary station whose station is being rebroadcast to identify the translator station by call sign and location. \* \* \* (2) By transmitting the call sign in International Morse Code at least once each hour. Transmitters of FM broadcast translator stations of more than 1 watt transmitter output power must be equipped with an automatic keying device that will transmit the call sign at least once each hour, unless there is in effect a firm agreement with the translator's primary station as provided in §74.1283(c)(1) of this section. Transmission of the call sign can be accomplished by: (i) Frequency shifting key; the carrier shift shall not be less than 5 kHz nor greater than 25 kHz. (ii) Amplitude modulation of the FM carrier of at least 30 percent modulation. The audio frequency tone use shall not be within 200 hertz of the Emergency Broadcast System Attention signal alerting frequencies.” At the time of the Agent’s observation, the Station’s designated primary station, KRCK, was off the air. Accordingly, the station identification was not being broadcast through a formal arrangement with its primary station. The Agent

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<sup>1</sup> 47 CFR § 1.89.  
<sup>2</sup> 47 CFR § 1.89(a).

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likewise observed that the Station was not transmitting its call sign in Morse Code at least once each hour.

- c. 47 CFR § 74.1284(b): “The licensee of an FM translator shall not rebroadcast the programs of any AM or FM broadcast station or other FM translator without obtaining prior consent of the primary station whose programs are proposed to be retransmitted. The Commission shall be notified of the call letters of each station rebroadcast and the licensee of the FM translator shall certify that written consent has been received from the licensee of the station whose programs are retransmitted.” At the time of the observation, the Commission’s records identified KRCK as the Station’s primary station, yet KRCK was not operating and therefore could not be the source of the programming broadcast on the Station.

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.<sup>3</sup> Therefore, Major Market Radio 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, circumstances, and a detailed description of whether the Station’s equipment (as installed on the date of the Agent’s observation) was capable of complying with the rules identified in paragraph 2, above, (ii) must contain a statement of the specific action(s) taken to correct each violation and preclude recurrence, and (iii) must include a timeline for completion of any pending, planned, or necessary 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.<sup>4</sup>

4. In accordance with section 1.16 of the Commission’s rules, we direct Major Market Radio to support its response to this Notice with an affidavit or declaration under penalty of perjury, signed and dated by an authorized officer of Major Market Radio with personal knowledge of the representations provided in Major Market Radio’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 the licensee’s possession, custody, control, or knowledge has been produced.<sup>5</sup> 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.<sup>6</sup>

5. All replies and documentation sent in response to this Notice should be marked with the File Number, specified above, and mailed to the following address:

Federal Communications Commission  
Los Angeles Regional Office  
11331 183rd Street, PMB #365  
Cerritos, California 90703  
field@fcc.gov

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<sup>3</sup> 47 U.S.C. § 308(b); 47 CFR § 1.89.

<sup>4</sup> 47 CFR § 1.89(c).

<sup>5</sup> Section 1.16 of the Commission’s 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.

<sup>6</sup> 18 U.S.C. § 1001 *et seq.*; *see also* 47 CFR § 1.17.

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6. This Notice shall be sent to Major Market Radio, LLC at its address of record and to its counsel, Dennis J. Kelly, Esq., The Law Office of Dennis Kelly, P.O. Box 41177, Washington, DC 20018-0577.

7. The Privacy Act of 1974<sup>7</sup> 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

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<sup>7</sup> 5 U.S.C. § 552a(e)(3).