

Federal Communications Commission

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

In the Matter of
Top Golf USA, Inc
Licensee of Station WQOA563
Glendale, Arizona
File No.: EB-FIELDWR-23-00035116
FRN: 0020928057

NOTICE OF VIOLATION

Released: June 7, 2023

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 to Top Golf USA, Inc (Top Golf), licensee of radio station WQOA563 in Dallas, Texas. 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 violation noted herein.

2. On February 9, 2023, agents of the Enforcement Bureau's Los Angeles and Denver Offices investigated an interference complaint in Glendale, Arizona, and observed the following violation:

- a. 47 CFR §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 granted by the Commission under the provisions of this part, except as specified in paragraph (b) of this section." On February 9, 2023, FCC Agents investigated interference to the City of Buckeye's licensed frequencies, WQJG713, and by direction finding techniques, located a drifting radio emission near 803.920 MHz emanating from a malfunctioning a Sense SE-350-WR-1CHD wireless microphone operating from the Top Golf facility at 6101 N 99th Ave, Glendale, Arizona. An on/off test of the wireless microphone confirmed that its transmissions were interfering with the Phoenix metropolitan 800 MHz licensed communication system. Top Golf was observed operating on 803.920 MHz even though its license did not authorize operation on this frequency.

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. Therefore, Top Golf must submit a written statement concerning this matter

1 47 CFR § 1.89.

2 47 CFR § 1.89(a).

3 The City of Buckeye's 800 MHz land mobile radio system is part of a cooperative of local governments in the Phoenix area to provide Public Safety communications throughout the metropolitan area.

4 47 U.S.C. § 308(b); 47 CFR § 1.89.

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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.⁵

4. In accordance with section 1.16 of the Commission's rules, we direct Top Golf to support its response to this Notice with an affidavit or declaration under penalty of perjury, signed and dated by an authorized officer of Top Golf with personal knowledge of the representations provided in Top Golf'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 Top Golf's possession, custody, control, or knowledge has been produced.⁶ 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.⁷

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, CA 90703
field@fcc.gov

6. This Notice shall be sent to Top Golf USA, Inc at 8750 N. Central Expressway, Ste. 1200, Dallas, Texas 75231.

7. The Privacy Act of 1974⁸ 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

⁵ 47 CFR § 1.89(c).

⁶ 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.

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

⁸ 5 U.S.C. § 552a(e)(3).