

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

In the Matter of
Gerlens Cesar,
Boston, Massachusetts
File Nos. EB-MC-000000491
EB-FIELDNER-17-00024874
EB-FIELDNER-17-00025344
EB-FIELDNER-19-00029169
NAL/Acct No.: 201932010003
FRN: 0028819951

NOTICE OF APPARENT LIABILITY FOR FORFEITURE

Adopted: December 12, 2019

Released: December 16, 2019

By the Commission: Chairman Pai and Commissioners O’Rielly and Starks issuing separate statements.

I. INTRODUCTION

1. Unauthorized radio broadcast stations—also known as pirate radio stations—operate illegally, undermine the Commission’s efforts to manage radio spectrum, and can interfere with licensed communications, including authorized broadcasts and public safety transmissions. Some of the most egregious pirate radio operations are run by individuals who simply ignore repeated enforcement actions by the Commission. These cases—including the one before us—merit the strongest possible enforcement measures. In this case, Gerlens Cesar2 simulcast programming on multiple unauthorized transmitters on two different frequencies in and around Boston, Massachusetts, in apparent violation of the Communications Act of 1934, as amended (Act). Through an investigation spanning multiple years, agents of the Commission’s Enforcement Bureau (Bureau) have warned Cesar that his conduct apparently violated the Act, yet Cesar ignored those warnings, moved his stations, and continued to operate them in order to simulcast programming under the trade name “Radio TeleBoston.” Accordingly, we propose an aggregate monetary forfeiture of \$453,015, the maximum amount permitted us by statute, against Cesar for these apparent significant illegal activities.

II. BACKGROUND

2. Section 301 of the Act states that “[n]o person shall use or operate any apparatus for the transmission of energy or communications or signals by radio” within the United States or its territories without a license granted by the Commission.3 Part 15 of the Commission’s rules provides an exception to this general section 301 license requirement and sets forth conditions under which such devices

1 The investigation began under File No. EB-FIELDNER-17-00024874, was continued under File Nos. EB-FIELDNER-17-00025344 and EB-FIELDNER-19-00029169, and was subsequently assigned File No. EB-MC-19-00000049. Any future correspondence with the Commission concerning this matter should reflect the newest case number.

2 Any entity that is a “Small Business Concern” as defined in the Small Business Act (Pub. L. 85-536, as amended) may avail itself of rights set forth in that Act, including rights set forth in 15 U.S.C. § 657, “Oversight of Regulatory Enforcement,” in addition to other rights set forth herein.

3 47 U.S.C. § 301.

(intentional radiators) may operate without an individual license.⁴ Specifically, pursuant to section 15.239(b) of the Commission's rules, unlicensed low power operations in the FM broadcast band are permitted so long as the emissions do not exceed 250 microvolts/meter ($\mu\text{V}/\text{m}$) at a distance of 3 meters from the emission source; operation in the FM broadcast band at power levels exceeding that amount requires a license from the Commission.⁵

3. On January 17, 2017, the Bureau received a complaint from a Boston-area resident alleging that a single illegal station was operating on both 90.1 MHz and 92.1 MHz in and around Boston. On July 12, 2017, the Bureau received a complaint filed by a Randolph, Massachusetts resident. The complainant alleged that a French/Haitian radio station, Radio TeleBoston, was operating on multiple frequencies and from multiple locations in and around Boston, Massachusetts. The July 12, 2017, complainant identified Cesar as the operator of Radio TeleBoston and stated that Cesar was also the owner of GC Computer in Boston, Massachusetts.

4. On August 2, 2017, Bureau personnel searched the Internet for sites relating to Radio TeleBoston and determined that the station had both a website and a social media presence. Collectively, these station-specific websites contained contact information that Bureau personnel connected to GC Computer, the entity identified in the July 12, 2017, complaint. Bureau personnel then performed online public records searches regarding GC Computer and confirmed that Cesar was associated with that business.

5. On September 23, 2017, while investigating a different matter, two Bureau agents were driving on Blue Hill Avenue in Boston, Massachusetts, and observed a business sign labelled "GC Computer." Recalling GC Computer's connection with this case, the agents approached the business and observed that the mailbox for Unit 1 bore three names: "GC Computer," "TeleBoston," and "Cesar."

6. Over the course of several months, Bureau agents investigated the specific locations from which Radio TeleBoston was operating. Using direction-finding techniques, Bureau agents located the transmitters operating on 90.1 MHz and 92.1 MHz. At each location, Bureau personnel took field strength measurements of the applicable transmitter's signal and confirmed that each transmitter was operating at a power level that far exceeded the 250 $\mu\text{V}/\text{m}$ permitted by section 15.239(b). The agents also confirmed that the Commission had not issued a license to operate FM broadcast stations on those two frequencies at or near those locations. This field work culminated in the February 12, 2018, issuance of a Notice of Unlicensed Operation to Cesar (2018 Notice).⁶ The 2018 Notice identified three locations from which Cesar was operating a transmitter on 92.1 MHz and the single location from which he was operating a transmitter on 90.1 MHz.⁷ The 2018 Notice advised Cesar that the transmitters were operating at levels that exceeded the permitted power for a non-licensed transmitter under section 15.239(b) of the Commission's rules and instructed Cesar to cease operating the unauthorized transmitters.⁸

7. In early 2019, the Bureau determined that Radio TeleBoston continued to simulcast its programming on multiple transmitters in and around Boston. Using direction-finding techniques, Bureau agents located one transmitter operating on 90.1 MHz and two transmitters operating on 92.1 MHz.

⁴ 47 CFR §§ 15.1, *et seq.*

⁵ 47 CFR § 15.239(b); *see also* 47 CFR § 15.1(b) (stating that "operation of an intentional . . . radiator that is not in accordance with the regulations in this part *must be licensed*. . .") (emphasis added).

⁶ Letter from David Dombrowski, Regional Director, Region One, FCC Enforcement Bureau, to Gerlens Cesar (Feb. 12, 2018), <https://docs.fcc.gov/public/attachments/DOC-349194A1.pdf>.

⁷ *See 2018 Notice*.

⁸ *See id.*

Although one of the transmitters operating on 92.1 MHz remained at a location identified in the 2018 Notice, the transmitter operating on 90.1 MHz and the other transmitter operating on 92.1 MHz were operating at new locations. Agents located two transmitters on April 16, 2019, and the third transmitter on May 16, 2019. Once the agents found each transmitter, they took field strength measurements and confirmed that each transmitter was operating at a power level far exceeding 250 $\mu\text{V}/\text{m}$.

8. On June 18, 2019, the Bureau issued another Notice of Unlicensed Operation to Cesar (2019 Notice).⁹ The 2019 Notice stated that Bureau agents had observed Cesar's unauthorized station operating on 90.1 MHz, transmitting from Boston, Massachusetts, and on 92.1 MHz, transmitting from Malden, Massachusetts, and Brockton, Massachusetts.¹⁰ The 2019 Notice advised Cesar that the transmitters were operating at levels that exceeded the permitted power for a non-licensed transmitter under section 15.239(b) of the Commission's rules and instructed Cesar to cease operating the unauthorized transmitters.¹¹

9. Both the 2018 Notice and the 2019 Notice warned Cesar that continued unlicensed operations could result in additional enforcement action. Both the 2018 Notice and the 2019 Notice also stated, in capital and bold letters, that the unlicensed operation of the stations "**MUST BE DISCONTINUED IMMEDIATELY AND MUST NOT RESUME.**"¹²

10. From June 19 through July 2, 2019, a Bureau agent periodically monitored 90.1 MHz and 92.1 MHz from the Bureau's Boston Field Office. On each occasion, the agent observed that the signal on 90.1 MHz was emanating from the direction of the station's transmitter in Boston, Massachusetts, and that signals on 92.1 MHz were emanating from the direction of the station's transmitters in Malden and Brockton, Massachusetts.

11. On July 16 and 17, 2019, a Bureau agent traveled to the transmitter sites in Boston, Brockton, and Malden, Massachusetts and, after confirming that Radio TeleBoston was operating at those locations, took field strength measurements. At each site, the agent confirmed that the transmitter was operating at a power level several thousand times greater than 250 $\mu\text{V}/\text{m}$.

III. DISCUSSION

12. We find that Cesar has apparently willfully and repeatedly violated section 301 of the Act¹³ by operating an FM broadcast transmitter on 90.1 MHz from a location in Boston, Massachusetts, and FM broadcast transmitters on 92.1 MHz from locations in Brockton and Malden, Massachusetts. The Bureau has gathered evidence demonstrating that since at least 2017, Cesar has apparently operated Radio TeleBoston simultaneously on multiple frequencies and from multiple locations and at power levels that would require a Commission license (rather than the extremely low power levels authorized for non-licensed operation under section 15.239(b) of the Commission's rules).¹⁴ Cesar's apparent violations of section 301 of the Act are both egregious and longstanding, and they therefore warrant a significant penalty.

13. Section 503(b) of the Act authorizes the Commission to impose a forfeiture against any entity that "willfully or repeatedly fail[s] to comply with any of the provisions of [the Act] or of any rule,

⁹ Letter from David Dombrowski, Regional Director, Region One, FCC Enforcement Bureau, to Gerlens Cesar (June 18, 2019), <https://docs.fcc.gov/public/attachments/DOC-358058A1.pdf>.

¹⁰ See 2019 Notice.

¹¹ See *id.*

¹² 2018 Notice at 2; 2019 Notice at 2.

¹³ 47 U.S.C. § 301.

¹⁴ 47 CFR § 15.239(b).

regulation, or order issued by the Commission.”¹⁵ Here, section 503(b)(2)(D) of the Act authorizes us to assess a forfeiture against Cesar of up to \$20,134 for each day of a continuing violation, up to a statutory maximum of \$151,005 for a single act or failure to act,¹⁶ subject to the limitation that section 503(b)(6) of the Act only empowers the Commission to assess forfeitures for violations that occurred within the year preceding the issuance of a Notice of Apparent Liability for Forfeiture.¹⁷ In exercising our forfeiture authority, we must consider the “nature, circumstances, extent, and gravity of the violation and, with respect to the violator, the degree of culpability, any history of prior offenses, ability to pay, and such other matters as justice may require.”¹⁸ In addition, the Commission has established forfeiture guidelines; they establish base penalties for certain violations and identify criteria that we consider when determining the appropriate penalty in any given case.¹⁹ Under these guidelines, we may adjust a forfeiture upward for violations that are egregious, intentional, or repeated, or that cause substantial harm or generate substantial economic gain for the violator.²⁰

14. Here, the facts justify a substantial penalty. Since at least 2017, Cesar has apparently operated Radio TeleBoston simultaneously on two different frequencies and from multiple locations. Further, Cesar has ignored specific written instructions from the Bureau to cease unauthorized operation of Radio TeleBoston on 90.1 MHz and 92.1 MHz. Yet, despite the Bureau’s warnings, Cesar persists in operating Radio TeleBoston in a manner that apparently violates section 301 of the Act.

15. Pursuant to the Commission’s *Forfeiture Policy Statement* and section 1.80 of the Commission’s rules, the base forfeiture amount for operation without an instrument of authorization is \$10,000 for each violation or each day of a continuing violation.²¹ We have discretion, however, to depart from these guidelines, taking into account the particular facts of each individual case.²² Bureau agents observed Cesar’s operation, on an apparently continuing basis, of three separate transmitters in the FM broadcast band without a license; we therefore treat the operation of each transmitter as a separate apparent continuing violation of section 301 of the Act.²³ Because of the duration of Cesar’s operation of an unlicensed FM broadcast station from multiple sites and on multiple frequencies, we propose a base forfeiture of \$10,000 for each day during the 28-day period between the issuance of the 2019 Notice

¹⁵ 47 U.S.C. § 503(b).

¹⁶ See 47 U.S.C. § 503(b)(2)(D); 47 CFR §§ 1.80(b)(7), (9); see also *Amendment of Section 1.80(b) of the Commission’s Rules, Adjustment of Civil Monetary Penalties to Reflect Inflation*, Order, 33 FCC Rcd 12278 (EB 2018) (setting the current, inflation-adjusted maximum forfeiture to \$151,005 for forfeitures brought under section 503(b)(2)(D) of the Act).

¹⁷ 47 U.S.C. § 503(b)(6).

¹⁸ 47 U.S.C. § 503(b)(2)(E).

¹⁹ 47 CFR § 1.80(b)(8), Note to paragraph (b)(8).

²⁰ *Id.*

²¹ 47 CFR § 1.80.

²² *The Commission’s Forfeiture Policy Statement and Amendment of Section 1.80 of the Rules to Incorporate the Forfeiture Guidelines*, Report and Order, 12 FCC Rcd 17087, 17098–99, para. 22 (1997) (noting that “[a]lthough we have adopted the base forfeiture amounts as guidelines to provide a measure of predictability to the forfeiture process, we retain our discretion to depart from the guidelines and issue forfeitures on a case-by-case basis, under our general forfeiture authority contained in Section 503 of the Act”) (*Forfeiture Policy Statement*), *recons. denied*, Memorandum Opinion and Order, 15 FCC Rcd 303 (1999).

²³ Multiple bureaus have long held that, in the context of the unauthorized operation of multiple transmitters, the operation of each transmitter constitutes a separate violation of section 301 of the Act. See, e.g., *Ricardo Samiter, Miami, FL*, Notice of Apparent Liability for Forfeiture, 7 FCC Rcd 6002, 6002, para. 9 (FOB 1992); *Best Media, Inc.*, Forfeiture Order, 24 FCC Rcd 4140, 4142, para. 6 (MB 2009).

(when the Bureau last warned Cesar that further operations could result in monetary penalties) and the measurements taken on July 16 and 17, 2019 (when agents confirmed that Radio TeleBoston continued to operate in apparent violation of section 301 of the Act), resulting in a proposed base forfeiture of \$280,000 for each of the station's three transmitters.²⁴ However, because section 503(b)(2)(D) of the Act imposes a maximum penalty for continuing violations arising from a single act or failure to act, we must reduce the base forfeiture amount to \$151,005 (the maximum amount so allowed) for each of the three apparent violations of section 301, yielding an aggregate base forfeiture of \$453,015.²⁵

16. Given the totality of the circumstances, we conclude that an upward adjustment, although warranted for both the egregiousness and the duration of the conduct, is neither necessary nor possible, given that the proposed base forfeiture amount is at the maximum amount permitted by statute. In applying the applicable statutory factors, we also consider whether there is any basis for a downward adjustment of the proposed forfeiture. In this case, we find none.

IV. CONCLUSION

17. We have determined that Cesar apparently willfully and repeatedly violated section 301 of the Act. As such, Cesar is apparently liable for a forfeiture of \$453,015.

V. ORDERING CLAUSES

18. Accordingly, **IT IS ORDERED** that, pursuant to section 503(b) of the Act²⁶ and section 1.80 of the Commission's rules,²⁷ Gerlens Cesar is hereby **NOTIFIED** of this **APPARENT LIABILITY FOR A FORFEITURE** in the amount of Four Hundred Fifty-Three Thousand, Fifteen Dollars (\$453,015) for willful and repeated violations of section 301 of the Act.²⁸

19. **IT IS FURTHER ORDERED** that, pursuant to section 1.80 of the Commission's rules,²⁹ within thirty (30) calendar days of the release date of this Notice of Apparent Liability for Forfeiture, Gerlens Cesar **SHALL PAY** the full amount of the proposed forfeiture or **SHALL FILE** a written statement seeking reduction or cancellation of the proposed forfeiture consistent with paragraph 22 below.

20. Gerlens Cesar shall send electronic notification of payment to the Office of the Field Director, Enforcement Bureau, Federal Communications Commission, at field@fcc.gov on the date said payment is made. Payment of the forfeiture must be made by credit card, ACH (Automated Clearing House) debit from a bank account using the Commission's Fee Filer (the Commission's online payment system),³⁰ or by wire transfer. The Commission no longer accepts forfeiture payments by check or money order. Below are instructions that payors should follow based on the form of payment selected:³¹

²⁴ See *Vearl Pennington and Michael Williamson, Morehead, KY*, Notice of Apparent Liability for Forfeiture, 32 FCC Rcd 4206, 4214, para. 23 (2017), *forfeiture ordered*, Forfeiture Order, 34 FCC Rcd 770 (2019) (imposing a \$10,000 per day forfeiture, up to the then-applicable statutory maximum, for operating an unlicensed low power television station).

²⁵ *Supra* para. 13.

²⁶ 47 U.S.C. § 503(b).

²⁷ 47 CFR § 1.80.

²⁸ 47 U.S.C. § 301.

²⁹ 47 CFR § 1.80.

³⁰ Payments made using the Commission's Fee Filer system do not require the submission of an FCC Form 159.

³¹ For questions regarding payment procedures, please contact the Financial Operations Group Help Desk by phone at 1-877-480-3201 (option #6), or by e-mail at ARINQUIRIES@fcc.gov.

- Payment by wire transfer must be made to ABA Number 021030004, receiving bank TREAS/NYC, and Account Number 27000001. A completed Form 159 must be faxed to the Federal Communications Commission at 202-418-2843 or e-mailed to RROGWireFaxes@fcc.gov on the same business day the wire transfer is initiated. Failure to provide all required information in Form 159 may result in payment not being recognized as having been received. When completing FCC Form 159, enter the Account Number in block number 23A (call sign/other ID), enter the letters “FORF” in block number 24A (payment type code), and enter in block number 11 the FRN(s) captioned above (Payor FRN).³² For additional detail and wire transfer instructions, go to <https://www.fcc.gov/licensing-databases/fees/wire-transfer>.
- Payment by credit card must be made by using the Commission’s Fee Filer website at <https://apps.fcc.gov/FeeFiler/login.cfm>. To pay by credit card, log-in using the FRN captioned above. If payment must be split across FRNs, complete this process for each FRN. Next, select “Pay bills” on the Fee Filer Menu, and select the bill number associated with the NAL Account—the bill number is the NAL Account number with the first two digits excluded—and then choose the “Pay by Credit Card” option. Please note that there is a \$24,999.99 limit on credit card transactions.
- Payment by ACH must be made by using the Commission’s Fee Filer website at <https://apps.fcc.gov/FeeFiler/login.cfm>. To pay by ACH, log in using the FRN captioned above. If payment must be split across FRNs, complete this process for each FRN. Next, select “Pay bills” on the Fee Filer Menu and then select the bill number associated to the NAL Account—the bill number is the NAL Account number with the first two digits excluded—and choose the “Pay from Bank Account” option. Please contact the appropriate financial institution to confirm the correct Routing Number and the correct account number from which payment will be made and verify with that financial institution that the designated account has authorization to accept ACH transactions.

21. Any request for making full payment over time under an installment plan should be sent to: Chief Financial Officer—Financial Operations, Federal Communications Commission, 445 12th Street, SW, Room 1-A625, Washington, DC 20554.³³ Questions regarding payment procedures should be directed to the Financial Operations Group Help Desk by phone, 1-877-480-3201, or by e-mail, ARINQUIRIES@fcc.gov.

22. The written statement seeking reduction or cancellation of the proposed forfeiture, if any, must include a detailed factual statement supported by appropriate documentation and affidavits pursuant to sections 1.16 and 1.80(f)(3) of the Commission’s rules.³⁴ The written statement must be mailed to the Office of the Secretary, Federal Communications Commission, 445 12th Street, SW, Washington, DC 20554, ATTN: Enforcement Bureau – Office of the Field Director, and must include the NAL/Account Number referenced in the caption. The statement must also be e-mailed to the Office of the Field Director at field@fcc.gov.

23. The Commission will not consider reducing or canceling a forfeiture in response to a claim of inability to pay unless the petitioner submits: (1) federal tax returns for the most recent three-year period; (2) financial statements prepared according to generally accepted accounting practices; or (3) some other reliable and objective documentation that accurately reflects the petitioner’s current financial

³² Instructions for completing the form may be obtained at <https://www.fcc.gov/Forms/Form159/159.pdf>.

³³ See 47 CFR § 1.1914.

³⁴ 47 CFR §§ 1.16, 1.80(f)(3).

status. Any claim of inability to pay must specifically identify the basis for the claim by reference to the financial documentation.

24. **IT IS FURTHER ORDERED** that a copy of this Notice of Apparent Liability for Forfeiture shall be sent by first class mail and certified mail, return receipt requested, to Gerlens Cesar at his last known address.

FEDERAL COMMUNICATIONS COMMISSION

Marlene H. Dortch
Secretary

**STATEMENT OF
CHAIRMAN AJIT PAI**

Re: *In the Matter of Gerlens Cesar, Boston, Massachusetts, File Nos. EB-MC-00000049, EB-FIELDNER-17-00024874, EB-FIELDNER-17-00025344, EB-FIELDNER-19-00029169*

Today's two Notices of Apparent Liability send a strong signal that the FCC will not tolerate unlicensed radio broadcasting. In each case, the pirate radio operator in question was given multiple warnings that he was violating the law. So in each case, we are proposing the maximum forfeiture amount permitted under the Communications Act. The harms of unlicensed radio broadcasting are serious: pirate stations interfere with licensed stations—whose owners have invested time and money in providing lawful service to the public—and can also cause interference to critical public safety systems.

Moreover, there are many legal alternatives to unlicensed broadcasting. In 2013, we held a successful filing window for low-power FM (LPFM) construction permits, and as a result, nearly 1,400 new stations catering to diverse local interests have been licensed. Next year, we will hold an auction of construction permits for 130 vacant FM allotments. And just this week, we adopted a Report and Order fine-tuning our noncommercial educational and LPFM point systems, paving the way for filing windows for construction permits for those services. Those particularly eager to get on the air have other legal avenues, such as collaborating with existing stations. Indeed, one of those newly licensed LPFM stations, WBCA-LP, Boston, Massachusetts, is a community radio station that allows residents to apply for time on the air. Finally, Internet streaming has become a popular and accessible platform for distributing audio programming without an FM license.

My thanks to the Commission staff that prepared these two items: from the Enforcement Bureau, Dave Dombrowski, Matt Gibson, Rosemary Harold, Chris Killion, Shannon Lipp, Jeremy Marcus, Janet Moran, and Ron Ramage, and from the Office of General Counsel, Susan Aaron, David Konczal, Linda Oliver, Bill Richardson, and Royce Sherlock.

I'd like to give a special thanks to our dedicated Enforcement Bureau field agents that put in the work necessary to make these NALs possible. The work of going after illegal broadcasting is time-consuming. You face harassment and even threats in your line of work (as I heard during a personal visit to the Miami field office), but your efforts are certainly appreciated those of us here at the Commission.

**STATEMENT OF
COMMISSIONER MICHAEL O'RIELLY**

Re: *In the Matter of Gerlens Cesar, Boston, Massachusetts, File Nos. EB-MC-00000049, EB-FIELDNER-17-00024874, EB-FIELDNER-17-00025344, EB-FIELDNER-19-00029169*

Traditionally I tend to avoid statements on NALs, but this issue is close to my heart and worthy of a few comments.

During my tenure at the FCC, I've had the pleasure of spending time with members of our field offices on multiple occasions, and I can say with great appreciation that these dedicated and hardworking colleagues are fully committed to enforcing our regulations on the front lines. For those joining us today, I want to say thank you again for all your hard work and effort. Along with a wide variety of other interference and public safety investigations, the plague of pirate radio operations continues to persist for the FCC field offices overseeing certain radio markets. Yet, the staff members relentlessly pursue these rogue, illegal actors. It is incumbent upon the Commission to support our field staff by doing our part to make headway on this problem, and we help to do so with these actions.

Today, we consider two NALs affecting the greater Boston radio market that have been several years in the making – yes, years in the making. I hope it is a sign of further action to come and certainly should represent a heightened sense of urgency within the Enforcement Bureau and Office of General Counsel regarding this significant problem. As the Chairman knows well, pirates not only harm legitimate broadcasters and their listeners in multiple ways, but also put their own audiences at risk by failing to broadcast any emergency alerts or abide by consumer protection regulations. The cases we consider today demonstrate the shameless level of disregard for the law that many pirates embody. While we may never see one dollar from these illegal operators under future forfeiture actions if we go that far, our goal must be to use our enforcement authority to help shut down the perpetrators, those aiding and abetting, and any landlord willing to house such activities.

These cases also demonstrate some of the challenges that confront the Commission in pursuing pirates, beyond the time and cost it takes to build a case against them. For one, the cap on liability severely limits our ability to take action against outlaw broadcasts. Compare the proposed assessed forfeitures in these pirate radio cases, which are in the thousands, to the multi-million dollar proposed assessment in another enforcement action we will consider later today. Perhaps the Commission can consider taking a broader view of what constitutes a “single act or failure to act,” as we have in the past in other instances. Is there a way to treat a pirate “station” that only operates on the weekends as the perpetrator of multiple separate illegal acts? In the meantime, I will continue to work with interested members of the House and Senate to complete passage of new legislation that will directly aid the Commission and its field office staff in their pursuit of these scofflaws.

In addition to increasing the amount of the forfeitures, which would help attract the attention of the Department of Justice in collecting fines and prosecuting these cases, it would be well worth the effort to pursue options to speed up the enforcement process. Once identified, cases materializing to the NAL stage seem to drag on a bit too long. Increasing DC staff resources could be one way to expedite the process.

I can tell you from first hand observation that many pirate operators are relatively well-known in their communities and that our field staff do a tremendous job investigating these cases and keeping tabs on those breaking the law. Yet, the number of illegal operators seems to remain consistent. As we continue to pursue the creation of additional tools, I am very pleased to see us move forward today and act on two well-known perpetrators in Boston. I applaud the Bureau staff and field agents for their work on this matter.

STATEMENT OF
COMMISSIONER GEOFFREY STARKS

Re: *In the Matter of Gerlens Cesar, Boston, Massachusetts, File Nos. EB-MC-00000049, EB-FIELDNER-17-00024874, EB-FIELDNER-17-00025344, EB-FIELDNER-19-00029169*

As a former enforcement official, both at the FCC and the Department of Justice, it should come as no surprise to anybody that I would support today's actions and the investigative work performed by EB's field agents that went into them. The FCC exists, in part, to manage the use of spectrum and, at its inception, was created to prevent interference among broadcast signals. Let there be no doubt that when we act to enforce the law preventing unlicensed stations, we are executing a statutorily mandated duty that protects licensed and public safety operations and ensures that folks using our airwaves are bound by our rules concerning emergency alerting, indecency, payola, political advertising transparency, and more.

That said, it is impossible to consider today's actions without experiencing the disheartening realization that something is not working as it should. There are no excuses for those who choose to break the law or violate our rules, but I can't help but think about what impact the Commission's longstanding abdication of our diversity obligations has had on the development of unlicensed stations serving immigrant communities. Our numbers reveal that representatives of the communities that largely turn to pirate radio – Haitians, Jamaicans, Trinidadians, folks from Grenada or Guyana, to name a few – are absent from the ranks of licensed operators. Opportunities to obtain licenses are few and far between. And, even when they do open up, opportunities remain severely limited in urban population centers like New York, Boston, and Miami, where unlicensed operators have historically operated.

Where would we be today if we provided real opportunities for these operators years ago and were more intentional about making sure our licenses were distributed with diversity obligations in mind? What if we listened to the Third Circuit Court of Appeals the first or second time, or even the third time when it issued one of its Prometheus opinions telling us we need to better study how our rules and policies impact ownership opportunities for women and people of color? And what if we acted years ago to put in place solid, legally sound programs to promote ownership diversity? On this fourth remand from the Prometheus court, I have called for us to improve our data and conduct new empirical research to support targeted efforts to improve broadcast ownership diversity. Our work here is long overdue.

According to one local business owner, who routinely tunes into one of the unlicensed stations at issue today, “[T]he most important way of communication that we have is the radio . . . Haitian radio is very, very, very important in our community. [If] all those stations get shut down, the Haitian community would shut down, too.”¹ These operators took matters into their own hands by broadcasting without a license, which risks other licensees and public safety in clear violation of the law. They cannot be allowed to serve their communities illegally. But I also believe that we must widen our aperture on today's actions to fully capture how the FCC's policies have let these communities down. Both are true, and we can all do better.

As I noted throughout my statement, I support our efforts and I appreciate the tireless work of the Enforcement Bureau and our field agents in combatting unlicensed operations across the country.

¹ Tori Bedford, *Radio Concorde: On The Air, Undercover*, WGBH News (June 6, 2018).