

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

In the Matter of
Ravi's Import Warehouse, Inc.,
Dallas, Texas
File No.: EB-FIELDSCR-17-00024142
NAL/Acct. No.: 201732500001
FRN: 0026514281

MEMORANDUM OPINION AND ORDER

Adopted: January 27, 2022

Released: January 27, 2022

By the Commission: Chairwoman Rosenworcel issuing a statement.

I. INTRODUCTION

1. Ravi's Import Warehouse, Inc., (Ravi's) filed an Application for Review (Application) of an Enforcement Bureau (Bureau) Memorandum Opinion and Order (MO&O) that denied Ravi's petition for reconsideration of a Forfeiture Order imposing a \$22,000 fine. In the MO&O, the Bureau affirmed the monetary forfeiture against Ravi's for operating a signal jamming device in violation of the Commission's rules. We have considered the Application and, for the reasons discussed below, we deny it.

II. BACKGROUND

2. Legal Framework. The Communications Act of 1934, as amended (Act), and the Commission's rules permit parties to actions taken on delegated authority to seek review by the full Commission. Specifically, section 5(c)(4) of the Act states that a party 'aggrieved by [an action taken on delegated authority] may file an application for review by the Commission within such time and in such manner as the Commission shall prescribe, and every such action shall be passed upon by the Commission.' Section 1.115 of the Commission's rules establishes the procedural rules for filing applications for review.

3. Federal law prohibits the operation of signal jammers in the United States and its territories. Section 301 of the Act prohibits the use or operation of 'any apparatus for the transmission of energy or communications or signals by radio' within the United States unless such use is licensed or authorized. Section 333 of the Act states that '[n]o person shall willfully or maliciously interfere with or cause interference to any radio communications of any station licensed or authorized by or under this chapter or operated by the United States Government.' In addition, section 302(b) of the Act provides that '[n]o person shall manufacture, import, sell, offer for sale, or ship devices or home electronic

1 Application for Review of Ravi's Import Warehouse, Inc. (filed Jan. 13, 2021) (on file in EB-FIELDSCR-17-00024142) (Application).

2 Ravi's Import Warehouse, Inc., Dallas, Texas, Memorandum Opinion and Order, 35 FCC Rcd 14525 (EB 2020).

3 Id. at 14529, para 15; Ravi's Import Warehouse, Inc., Dallas, Texas, Forfeiture Order, 33 FCC Rcd 3913 (EB 2018) (Forfeiture Order), aff'g Notice of Apparent Liability for Forfeiture, 32 FCC Rcd 5606 (EB 2017) (NAL).

4 47 U.S.C. § 151 et seq.

5 47 U.S.C. § 155(c)(4).

6 47 CFR § 1.115.

7 47 U.S.C. § 301.

8 Id. § 333.

equipment and systems, or *use* devices, which fail to comply with regulations promulgated pursuant to this section.”⁹ The regulations implementing section 302 of the Act include those codified in sections 2.805 and 15.1(c) of the Commission’s rules, which provide that radio frequency devices must be authorized by the Commission before operation.¹⁰ Jamming devices cannot be certified or authorized because their primary purpose is to block or interfere with authorized radio communications and, therefore, their use would compromise the integrity of the nation's communications infrastructure. Thus, jamming devices cannot comply with the Commission’s technical standards and cannot be operated lawfully by consumers in the United States or its territories.¹¹

4. *Factual Background.* On April 10, 2017, an agent from the Bureau’s Dallas Field Office responded to a complaint from an AT&T representative asserting that an AT&T base station was receiving interference from what appeared to be a jamming device. The AT&T representative had separately, and using his own equipment, determined that the jammer was likely located within Ravi’s commercial establishment. After arriving at the company’s location, the agent spoke with Anita Bhatia (Bhatia), who stated that she was the owner of Ravi’s. Bhatia admitted to the agent that Ravi’s used a signal jammer and did so as a means of preventing its employees from using mobile phones while at work. She also acknowledged that, in February 2017, the AT&T representative had warned her adult son against the operation of a signal jammer. Bhatia further stated that she had disposed of the jammer shortly before the agent’s arrival. Bhatia declined to voluntarily retrieve and surrender the device to the agent, and she also refused to identify the specific dumpster in which she had disposed of the device. Instead, the Bureau concluded, based on Ravi’s admission, Bhatia offered to sell the signal jammer to the agent. The agent declined the offer and issued a Notice of Unlicensed Radio Operation informing Ravi’s that the operation of a signal jammer is illegal.¹²

5. On July 26, 2017, the Bureau issued a Notice of Apparent Liability for Forfeiture, proposing a \$22,000 forfeiture against Ravi’s for its apparent willful violation of sections 301, 302(b), and 333 of the Act and sections 2.805(a) and 15.1(c) of the Commission’s rules stemming from its operation of a signal jammer.¹³ The proposed forfeiture included a \$10,000 fine for operation without an instrument of authorization, a \$7,000 fine for causing interference to authorized communications, and a \$5,000 upward adjustment for egregious conduct.¹⁴ On August 21, 2017, Ravi’s submitted a response to the *NAL*.¹⁵ In the *NAL* Response, Ravi’s affirmed the core facts establishing that it violated the Act and the Commission’s rules but argued that the Bureau misapplied relevant law and Commission precedents in proposing a \$22,000 monetary forfeiture.¹⁶ On April 26, 2018, after considering Ravi’s arguments in the *NAL* Response, the Bureau issued the *Forfeiture Order* rejecting those arguments and imposing a \$22,000 penalty.¹⁷

⁹ *Id.* § 302a(b) (emphasis added).

¹⁰ *See* 47 CFR §§ 2.805, 15.1(c).

¹¹ *See* 47 U.S.C. §§ 301, 302a(b), 333; 47 CFR §§ 2.805, 15.1(c).

¹² *Forfeiture Order*, 33 FCC Rcd at 3913-3914, para. 2; *NAL*, 32 FCC Rcd at 5607, para. 3; Ravi’s Import Warehouse, Inc., Response to Notice of Apparent Liability for Forfeiture at 1, para. 3 (Aug. 21, 2017) (on file in EB-FIELDSCR-17-00024142) (*NAL* Response).

¹³ *NAL*, 32 FCC Rcd 5606.

¹⁴ *See Forfeiture Order*, 33 FCC Rcd at 3916, para. 8.

¹⁵ *See* *NAL* Response.

¹⁶ *Id.* at 1-2.

¹⁷ *See Forfeiture Order*, 33 FCC Rcd at 3916, para. 8.

6. On May 29, 2018, Ravi's sought reconsideration of the Bureau's *Forfeiture Order*.¹⁸ In its Petition, Ravi's again admitted to violating the Commission's rules by operating the signal jamming device, but raised three new arguments for reducing the amount imposed by the *Forfeiture Order*: (a) Ravi's has a history of compliance with the Commission's rules,¹⁹ (b) throwing the jamming device in a dumpster was the legal equivalent of voluntary relinquishing it,²⁰ and (c) the owner of Ravi's never offered to sell the jamming device to the agent.²¹ After considering the Petition, on December 15, 2020, the Bureau denied the Petition on procedural grounds finding that because Ravi's could have raised these new facts and arguments in the NAL Response but did not,²² they were procedurally barred from raising them. The Bureau's order also reviewed the merits of Ravi's arguments and rejected them.²³ The Bureau then affirmed the \$22,000 forfeiture.²⁴

7. On January 14, 2021, Ravi's filed the Application seeking our review of the *MO&O*.²⁵ In the Application, Ravi's reiterated its arguments in the Petition for reducing the forfeiture amount.²⁶

III. DISCUSSION

8. After careful consideration of the record, we deny the Application and affirm the forfeiture penalty. As discussed below, the Application fails to address any of the procedural defects for which the Petition for Reconsideration was denied as well as failing on the merits.

A. Ravi's Failed to Challenge the Procedural Bar of its New Arguments in the Petition.

9. Ravi's Application admits that it used an illegal signal jamming device,²⁷ but requests that the Commission revisit the arguments made in the Petition both against the Bureau's \$5,000 upward adjustment²⁸ and for an additional downward adjustment.²⁹ Ravi's Application, however, ignores the primary holding in the *MO&O*, which denied the Petition because, in violation of the Commission's procedural rules, Ravi's relied on facts and arguments not previously presented.³⁰ The Application, however, does not even mention the Bureau's conclusion that Ravi's new arguments were barred, let alone argue that the Bureau misapplied the Commission's rules in barring the Petition's arguments. Thus, the procedural bar of all of Ravi's new arguments in the Petition stands, and the Application, which asks us to revisit those same arguments, is denied.

B. The Bureau Correctly Found that Arguments in the Petition Are Barred

10. Even if Ravi's had requested that we overturn the Bureau's decision that the Commission's rules barred consideration of the Petition's arguments, based on the record in this case, we

¹⁸ Petition for Reconsideration of Ravi's Import Warehouse, Inc. (filed May 29, 2018) (on file in EB-FIELDSCR-17-00024142) (Petition).

¹⁹ See Petition at 3.

²⁰ See *id.* at 3-4.

²¹ See *id.* at 4-5.

²² See 47 CFR § 1.106(c)(1).

²³ See *MO&O*, 35 FCC Rcd 14525, 14528-14529, paras. 11-13.

²⁴ *Id.* at 14529, para 14.

²⁵ See Application.

²⁶ *Id.* at 3-6.

²⁷ *Id.* at 2.

²⁸ *Id.* at 3-6.

²⁹ *Id.*

³⁰ See *MO&O*, 35 FCC Rcd 14525, 1427-14528, para 10.

would have denied that request. Section 1.106(c) of the Commission's rules authorizes the Bureau to grant a petition for reconsideration that relies on new facts or arguments only if those facts or arguments relate to events that have occurred, or circumstances that have changed, since the last opportunity to present such matters; when the petition relies on facts or arguments unknown to the petitioner until after his last opportunity to present those facts or arguments; or when the Bureau determines that consideration of the new facts or arguments is required in the public interest.³¹ We find that Ravi's arguments in the Petition were new and unrelated to the arguments it made in the NAL Response. In the NAL Response, Ravi's arguments included a factual disagreement that had no bearing on the forfeiture amount³² and an argument based on a section of the Commission's rules that only applies to broadcast licensees.³³ The Petition, on the other hand, argued for forfeiture reduction on completely different grounds.³⁴ Moreover, Ravi's did not assert that the Petition's new arguments were based on new events or changed circumstances.³⁵ Nor did Ravi's advance any argument why the public interest would be served by deviating here from our well-established principle that "[w]e cannot allow [a party] to sit back and hope that a decision will be in its favor and then, when it isn't, to parry with an offer of more evidence. No judging process in any branch of government could operate efficiently or accurately if such a procedure were allowed."³⁶ Thus, we find that the Bureau was correct to bar these arguments from consideration.

C. The Bureau's Merits Decision Was Correct

11. In addition to upholding the Bureau's finding that Ravi's arguments in the Petition are procedurally barred, we alternatively and independently deny the application for review and affirm the imposition of liability for a forfeiture on the merits. We agree with, and adopt, the reasoning of the Regional Director in its entirety. Ravi's conceded the central facts to support a conclusion that it had violated sections 301 and 302(b) of the Act and sections 2.805(a) and 15.1(c) of the Commission's rules by operating a radiofrequency device without authority from the Commission and section 333 of the Act by willfully causing interference to AT&T.³⁷

12. We also conclude that the Bureau correctly dismissed the arguments in the Petition for Reconsideration on the merits.³⁸ In the *MO&O*, the Bureau rejected Ravi's arguments to reduce the forfeiture amount finding that Ravi's (1) had no history of compliance with the Commission's rules, (2) had not surrendered the jamming device to the Commission, and (3) had been inconsistent in its statements as to whether it had offered to sell the jamming device to a Commission Agent.³⁹

13. First, we agree with the Bureau that Ravi's has no history of compliance with the Commission's rules and that no forfeiture reduction was warranted on that ground.⁴⁰ Ravi's argues that the Bureau should have used a different standard: a forfeiture reduction for having neither a history of

³¹ 47 CFR § 1.106(c).

³² See *Forfeiture Order*, 33 FCC Rcd 3913, 3915, para. 6.

³³ *Id.* at para 7.

³⁴ See *supra* para 6; *MO&O*, 35 FCC Rcd 14525, 14527-14528, para 10.

³⁵ 47 CFR § 1.106(c).

³⁶ *GLH Communications, Inc.*, Order on Reconsideration, 33 FCC Rcd 5926, 5928-29, para. 8 & nn.27-28 (2018) (quoting *Colorado Radio Corp. v. FCC*, 118 F.2d 24, 26 (D.C. Cir. 1941)), *aff'd*, 930 F.3d 449 (D.C. Cir. 2019).

³⁷ *Forfeiture Order*, 33 FCC Rcd at 3915, para. 5. See 47 U.S.C. §§ 301, 302a(b), 333; 47 CFR §§ 2.805(a), 15.1(c).

³⁸ The conclusions made in the *MO&O* are hereby adopted and incorporated by reference. See *MO&O*, 35 FCC Rcd at 14528-14529, paras. 11-13

³⁹ See *id.*

⁴⁰ See *id.* at 14528, para. 11.

compliance nor a history of violations.⁴¹ Ravi's cites no precedent, however, for the Commission ever having used such a standard, and we decline to adopt a standard that would have us depart from duly adopted forfeiture amounts based on nothing but an argument that the violation was a first offense. Second, we agree with the Bureau that throwing away a jamming device is not the same as surrendering that device because disposal in a dumpster does not definitely remove the device from the stream of commerce.⁴² Thus, no forfeiture reduction for surrender of the jamming device is warranted. Last, we agree with the Bureau that Ravi's response to the issue of whether it offered to sell the jamming device has been inconsistent,⁴³ as it first accepted the accusation as true in its NAL Response⁴⁴ and later rejected it in the Petition.⁴⁵ We see no reason, therefore, to eliminate the increased forfeiture amount for egregiousness.⁴⁶

IV. CONCLUSION

14. Upon review of the Application and the entire record, and for the foregoing reasons, we affirm the imposition of the \$22,000 monetary forfeiture against Ravi's.

V. ORDERING CLAUSES

15. **ACCORDINGLY, IT IS ORDERED** that, pursuant to section 5(c)(5) of the Act and section 1.115 of the Commission's rules, the Application for Review filed by Ravi's Import Warehouse, Inc., **IS DENIED**.⁴⁷

16. **IT IS FURTHER ORDERED** that the *MO&O IS AFFIRMED* and that pursuant to section 503(b) of the Act and section 1.80 of the Commission's rules, Ravi's Import Warehouse, Inc., **SHALL PAY A MONETARY FORFEITURE** in the amount of Twenty-Two Thousand Dollars (\$22,000) as specified in the *MO&O*.⁴⁸

17. **IT IS FURTHER ORDERED** that a copy of this *Memorandum Opinion and Order* shall be sent by first class mail and certified mail, return receipt requested, to Ravi's Import Warehouse, Inc., Attn: Anita Bhatia, 11029 Harry Hines Boulevard, Dallas, Texas 75229 and to Daniel J. Alpert, Esq., 2120 N. 21st Rd., Arlington, VA 22201.

FEDERAL COMMUNICATIONS COMMISSION

Marlene H. Dortch
Secretary

⁴¹ See Application at 6.

⁴² See *MO&O*, 35 FCC Rcd at 14528 para. 12.

⁴³ See *id.* at para. 13.

⁴⁴ See NAL Response at 1, para. 3 (agreeing with all of the operative facts in the Background section of the Notice of Apparent liability except for Ravi's owner asking the agent to retrieve the jamming device from a trash dumpster).

⁴⁵ See Petition at 4-5.

⁴⁶ 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.

⁴⁷ 47 U.S.C. § 155(c)(5); 47 CFR § 1.115.

⁴⁸ 47 U.S.C. § 503(b); 47 CFR § 1.80.

**STATEMENT OF
CHAIRWOMAN JESSICA ROSENWORCEL**

Re: *In the Matter of Ravi's Import Warehouse, Inc., Dallas Texas*, Memorandum Opinion and Order,
File No.: EB-FIELDSCR-17-00024142.

When it comes to signal jammers, the Communications Act is clear. You can't make them, import them, sell them, ship them, or operate them. It doesn't matter if you're using them in a business, a classroom, a home, or a vehicle. Unless you are operating under a limited exemption for Federal law enforcement, they are not allowed. The reason for this is obvious. Unauthorized signal jammers interfere with the authorized use of spectrum. They can disrupt the wireless signals we count on to power so much in our daily lives and reach emergency services.

That's why today's decision upholding the work of our Enforcement Bureau is so important. It makes clear that if you are using unauthorized jamming equipment, we will find you and hold you accountable. I want to thank the Enforcement Bureau's Field Agents in the Dallas Field Office and the Field's Region Two management for their work in this proceeding. In addition, thank you to Michael Carowitz, Matthew Gibson, Rosemary Harold, Jeremy Marcus, David Marks, Janet Moran, Axel Rodriguez, and Ashley Tyson from the Enforcement Bureau; and Douglas Klein, David Horowitz, and William Richardson from the Office of General Counsel.