

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

In the Matter of	)	File No.: EB-SED-17-00024010
	)	NAL/Acct. No.: 202032100006
Sound Around, Inc.	)	FRN: 0028317733
	)	
	)	

**FORFEITURE ORDER**

**Adopted: August 1, 2022**

**Released: August 1, 2022**

By the Commission:

**TABLE OF CONTENTS**

Heading	Paragraph #
I. INTRODUCTION.....	1
II. BACKGROUND.....	3
III. DISCUSSION.....	11
A. Sound Around Marketed Wireless Microphones That Were Noncompliant or Not Authorized.....	12
B. The Proposed Forfeiture Amount Is Appropriate.....	22
1. The <i>Marketing Citation</i> Makes Sound Around Subject to the Monetary Penalty in the <i>NAL</i> .....	24
2. The Forfeiture is Properly Based on 32 Noncompliant Equipment Models.....	30
3. The Facts Support Upward Forfeiture Adjustments.....	38
IV. CONCLUSION.....	43
V. ORDERING CLAUSES.....	44

**I. INTRODUCTION**

1. We impose a penalty of \$685,338 against Sound Around, Inc. (Sound Around or Company) for marketing 32 models of wireless microphones that failed to comply with the Communications Act of 1934, as amended (the Act),<sup>1</sup> and the Federal Communications Commission’s (FCC or Commission) equipment marketing rules.<sup>2</sup> These requirements are designed to ensure that radio frequency equipment, including wireless microphones, do not cause harmful interference to authorized communications, and that equipment users can be confident that the equipment they use complies with appropriate regulations. The marketing of noncompliant equipment increases the possibility of causing interference with other electronic devices, authorized wireless services, and public safety services.

2. On April 3, 2020, the Commission issued a Notice of Apparent Liability for Forfeiture (*NAL*) proposing to fine Sound Around \$685,338 for marketing 32 apparently noncompliant models of wireless microphones.<sup>3</sup> Sound Around received directives for years from the FCC warning the Company to ensure its devices were properly authorized under the Commission’s rules; Sound Around did not do

<sup>1</sup> 47 U.S.C. § 151 *et seq.*

<sup>2</sup> 47 U.S.C. § 302a(b); 47 CFR §§ 2.803, 74.851(f).

<sup>3</sup> The *NAL* includes a more complete discussion of the facts and history of this case and is incorporated herein by this reference. *Sound Around, Inc.*, Notice of Apparent Liability for Forfeiture, 35 FCC Rcd 3478 (2020).

so. After reviewing the Company's response to the *NAL*,<sup>4</sup> we find no reason to cancel, withdraw, or reduce the proposed penalty, and we therefore assess the \$685,338 forfeiture the Commission previously proposed.

## II. BACKGROUND

3. *Legal Background.* The Act and the Commission's equipment marketing rules collectively require marketers of radio frequency devices to ensure, prior to advertising or selling such devices, that they will not cause harmful interference to authorized radio communications.<sup>5</sup> Specifically, section 302(b) of the Act provides that "[n]o person shall manufacture, import, sell, offer for sale, or ship devices or home electronic equipment and systems, or use devices, which fail to comply with regulations promulgated pursuant to this section."<sup>6</sup> The Commission has long-standing regulations, including technical and authorization requirements, designed to prevent interference from devices that emit radio frequency energy and to inform users that the equipment has been properly authorized.

4. Section 2.803(b)(1) of the Commission's rules prohibits the marketing of a radio frequency device unless the device has first been properly authorized, identified, and labeled in accordance with the Commission's rules.<sup>7</sup> The term "marketing" means the "sale or lease, or offering for sale or lease, including advertising for sale or lease, or importation, shipment, or distribution for the purpose of selling or leasing or offering for sale or lease."<sup>8</sup> Similarly, pursuant to section 74.851(f) of the Commission's rules, transmitters such as certain wireless microphones to which the part 74 rules apply must be authorized in accordance with the certification procedures before they may be marketed in the United States.<sup>9</sup> In short, a wireless microphone must be authorized prior to marketing.

5. The Commission allows the use of wireless microphones on a licensed and unlicensed basis, depending on the spectrum band used, technical characteristics of the devices, and user eligibility.<sup>10</sup> The technical rules applicable to wireless microphones will differ depending on the spectrum band in which they operate. Wireless microphones are not authorized to operate in the aviation bands for public safety reasons, as these bands are set aside for instrument landing systems and radio navigation, among other important services.<sup>11</sup> Wireless microphones are permitted to operate in certain broadcast television (TV) bands, but they must do so pursuant to specified rules, including operation and equipment marketing rules. The broadcast TV frequencies applicable in this case include 54 to 72 MHz (VHF channels 2-4), 174 to 216 MHz (VHF channels 7-13), 470 to 608 MHz (UHF channels 14-36), 614 to 616 MHz (guard band), 653 to 657 MHz (licensed use duplex gap), and 657 to 663 MHz (unlicensed duplex gap).<sup>12</sup>

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<sup>4</sup> *Sound Around, Inc.*, Response to Notice of Apparent Liability (filed July 10, 2020) (on file in EB-SED-17-00024010) (NAL Response).

<sup>5</sup> 47 U.S.C. § 302a(b); 47 CFR § 2.803(b)-(c).

<sup>6</sup> 47 U.S.C. § 302a(b).

<sup>7</sup> See 47 CFR § 2.803(b)(1).

<sup>8</sup> See *id.* § 2.803(a).

<sup>9</sup> *Id.* § 74.851(f). The Commission's certification procedures are described in sections 2.1031-2.1060 of the Commission's rules.

<sup>10</sup> See generally *Promoting Spectrum Access for Wireless Microphone Operations, Expanding the Economic and Innovation Opportunities of Spectrum Through Incentive Auctions*, Report and Order, 30 FCC Rcd 8739, 8741-43, paras. 4-8 (2015) (general discussion of wireless microphones).

<sup>11</sup> See, e.g., Federal Aviation Administration, Radio Frequency Interference (RFI) Radio Spectrum Planning, Order 6050.19E, <https://www.faa.gov/general/radio-frequency-interference-rfi-radio-spectrum-planning> (last visited Jan. 28, 2022).

<sup>12</sup> 47 CFR § 74.802(a) (licensed wireless microphones); § 15.236 (unlicensed wireless microphones).

6. *Factual Background.* Sound Around is a privately held company located in Brooklyn, New York, that sells audio and video electronics and accessories.<sup>13</sup> The Company has long marketed wireless microphones in the United States. In 2011, the Spectrum Enforcement Division (Division) of the Enforcement Bureau (Bureau) cited the Company for marketing wireless microphones that were out of compliance with the Commission’s equipment marketing rules and warned the Company to ensure its wireless microphones complied with the Commission’s rules going forward.<sup>14</sup> The *Marketing Citation* warned that section 2.803(a)(1) of the Commission’s rules stated that “no person shall sell or lease, or offer for sale or lease (including advertising for sale or lease), or import, ship or distribute for the purpose of selling or leasing or offering for sale or lease, any radio frequency device unless: (1) In the case of a device subject to certification, such device has been authorized by the Commission in accordance with the rules in this chapter and is properly identified and labeled as required by section 2.925 and other relevant sections in this chapter . . . .”<sup>15</sup> The *Marketing Citation* found that Sound Around marketed five models of wireless microphones, two of which (PDWM94 and PDWM96) were also subsequently implicated in the *NAL*, through its website pyleaudio.com.<sup>16</sup> The *Marketing Citation* also warned Sound Around that, if the Company “violates the Communications Act or the Commission’s [r]ules by engaging in conduct of the type described [in the *Marketing Citation*],” the Company may be subject to significant monetary forfeitures or other sanctions.<sup>17</sup> Sound Around never responded to the *Marketing Citation*, and despite being warned, Sound Around continued to market noncompliant wireless microphones.<sup>18</sup>

7. After receiving a complaint in 2016 that Sound Around was continuing to market noncompliant wireless microphones, the Division again began investigating the Company by sending a letter of inquiry (2017 LOI).<sup>19</sup> Throughout this second investigation, which occurred over several years, the Company never provided complete answers about whether the wireless microphones it was marketing were authorized.<sup>20</sup> The Division initially was unable to determine the operating parameters or authorization status of the wireless microphones that were the subject of the investigation because in numerous instances the FCC identification numbers (IDs) previously submitted by Sound Around were not consistent with the microphones’ advertised descriptions and/or claimed operating frequencies.<sup>21</sup> For instance, on September 19, 2017, Sound Around submitted a chart that showed model PDWM4400

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<sup>13</sup> See *NAL*, 35 FCC Rcd at 3480, para. 6.

<sup>14</sup> See *Sound Around Inc.*, Citation, 26 FCC Rcd 9474, 9477, para. 10 (EB 2011) (*Marketing Citation*) (“Sound Around should take immediate steps to ensure that it does not continue to violate the Commission’s Rules, including removing from display (including online display) all wireless microphones that are capable of operating in the 700 MHz frequency band. To the extent that Sound Around markets wireless microphones that operate outside the 700 MHz frequency band, such as in the core TV bands (channels 2-51, excluding channel 37), it should review the Commission Rules that apply to such devices.”) (footnote omitted). The *Marketing Citation* noted that Sound Around engaged in unlawful marketing in 2009, 2010, and 2011. *Id.* at 9475-76, paras. 4-6.

<sup>15</sup> *Marketing Citation*, 26 FCC Rcd at 9476, para. 7 (citing 47 CFR § 2.803(a)(1) (2011)).

<sup>16</sup> *Id.* at paras. 3-9.

<sup>17</sup> *Id.* at para. 11.

<sup>18</sup> See *NAL*, 35 FCC Rcd at 3482, para. 13, note 38.

<sup>19</sup> See Letter of Inquiry from Aspasia A. Paroutsas, Chief, Spectrum Enforcement Division, FCC Enforcement Bureau, to Abraham Brach, Sound Around, Inc. (June 6, 2017) (on file in EB-SED-17-00024010) (2017 LOI).

<sup>20</sup> See *NAL*, 35 FCC Rcd at 3480-81, paras. 8-9. Sound Around admits its various responses contained contradictory and differing information regarding the radio frequency devices it marketed. See *NAL* Response at 18-19.

<sup>21</sup> See Letter of Inquiry from JoAnn Lucanik, Acting Chief, Spectrum Enforcement Division, FCC Enforcement Bureau, to Sound Around, Inc. at 3 (Apr. 30, 2019) (on file in EB-SED-17-00024010) (2019 LOI).

operating in the 174.2-215.8 MHz frequency range.<sup>22</sup> However, on December 19, 2017, Sound Around provided a declaration that the same model operated on frequencies 224.9-268.6 MHz.<sup>23</sup>

8. To resolve these inconsistent responses, the Division sent another LOI to the Company in 2019 (2019 LOI).<sup>24</sup> In the 2019 LOI, the Division notified the Company that, given the information contained in its previous LOI responses, a determination could not be made regarding the actual operating frequencies of the devices in question or whether the devices were authorized.<sup>25</sup> The 2019 LOI provided the Company another opportunity to explain, correct, or clarify its prior responses, directing the Company to provide (i) the actual operating frequencies, (ii) the FCC IDs, and (iii) the authorized frequencies, for each of the 82 wireless microphone models that were shown in a screenshot taken by the Division of Sound Around's website, [pyleusa.com](http://pyleusa.com), which showed all of the wireless microphone models available for purchase as of April 9, 2019.<sup>26</sup> The 2019 LOI only asked the Company for data on the devices that were listed as available for purchase and did not ask about models that were described as out of stock or not currently for sale. The Company submitted a sworn response that provided the FCC IDs and actual operating frequencies for some, but not all, of the 82 models in question and specified that some models had not been sold after 2017 (2019 LOI Response).<sup>27</sup> As explained in detail in the *NAL*, the Division compared the FCC IDs and actual operating frequencies of the microphones that were provided in the Company's sworn 2019 LOI response. Based on this comparison, the Commission determined that, for 32 microphone models advertised for sale on Sound Around's website identified in the 2019 LOI, either the actual operating frequencies provided by the Company did not match the frequencies authorized for that model or the model had not been certified, as evidenced by the lack of an FCC ID number.<sup>28</sup>

9. Based on the Company's sworn response,<sup>29</sup> the Commission, on April 3, 2020, issued the *NAL* proposing a \$685,338 forfeiture against Sound Around and found that the Company marketed 32 noncompliant models of wireless microphones within the previous year that did not appear to have been authorized in accordance with the Commission's rules. In the *NAL*, the Commission found that Sound Around apparently willfully and repeatedly violated section 302 of the Act and sections 2.803 and 74.851 of the Commission's rules when it marketed 32 models of wireless microphones that were noncompliant or not authorized,<sup>30</sup> notwithstanding the previously issued *Marketing Citation* that alerted the Company to its earlier marketing of radio frequency devices in violation of the Act and of the Commission's equipment marketing rules. In the *NAL*, the Commission also proposed a significant upward adjustment of the total base forfeiture, given the Company's long record of repeated and continuous marketing violations and the egregious nature of the violations, because the Company marketed two microphone

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<sup>22</sup> See E-mail from Max Moskowitz, Esq., Counsel to Sound Around, Inc, Ostrolenk Faber LLP, to Aspasia A. Paroutsas, Chief, Spectrum Enforcement Division, FCC Enforcement Bureau (Sept. 19, 2017, 8:46 ET) (on file in EB-SED-17-00024010) (September 19 LOI Response).

<sup>23</sup> See E-mail and attachments from Steve Coran, Esq., Lerman Senter PLLC (Counsel to Sound Around), to Aspasia Paroutsas, Chief, Spectrum Enforcement Division, FCC Enforcement Bureau (Dec. 19, 2017, 17:56 ET) (on file in EB-SED-17-00024010).

<sup>24</sup> 2019 LOI at 1.

<sup>25</sup> *Id.*

<sup>26</sup> See *NAL*, 35 FCC Rcd at 3481, para. 9; see also 2019 LOI.

<sup>27</sup> Letter and attachments from Max Moskowitz, Esq., Counsel to Sound Around, Inc, Ostrolenk Faber LLP, to JoAnn Lucanik, Acting Chief, Spectrum Enforcement Division, FCC Enforcement Bureau (June 7, 2019) (on file in EB-SED-17-00024010) (2019 LOI Response); see also *NAL*, 35 FCC Rcd at 3481, para. 10.

<sup>28</sup> *NAL*, 35 FCC Rcd at 3481, para. 11.

<sup>29</sup> 2019 LOI Response.

<sup>30</sup> 47 U.S.C. § 302a(b); 47 CFR §§ 2.803, 74.851.

models that apparently operated in the aviation band and thus had the potential to cause harmful interference to a critical public safety radio service.<sup>31</sup>

10. On July 10, 2020, Sound Around filed a response to the *NAL*.<sup>32</sup> First, Sound Around argues the *NAL* should be cancelled because it does not prove a violation occurred, including claiming that the screenshots of the Sound Around websites showing the microphones with prices and a shopping cart do not prove that a person could have actually purchased a microphone listed for sale.<sup>33</sup> Second, Sound Around claims the *Marketing Citation* provided insufficient and stale notice to support the *NAL*.<sup>34</sup> Third, Sound Around argues that the proposed forfeiture should be lowered because some microphones were authorized or should be grouped together for the purpose of any forfeiture calculation.<sup>35</sup> Finally, the Company claims that the upward adjustments are excessive and unwarranted.<sup>36</sup>

### III. DISCUSSION

11. In this Forfeiture Order, we find that Sound Around violated the Act and the Commission's rules by marketing 32 models of wireless microphones that were noncompliant or not authorized in accordance with the Commission's rules. In the *NAL*, the Commission proposed a forfeiture in accordance with section 503(b) of the Act,<sup>37</sup> section 1.80 of the Commission's rules,<sup>38</sup> and the Commission's *Forfeiture Policy Statement*.<sup>39</sup> When we assess forfeitures, section 503(b)(2)(E) requires that we take into account 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."<sup>40</sup> We have fully considered Sound Around's response to the *NAL* and find none of its arguments persuasive. We therefore affirm the \$685,338 forfeiture proposed in the *NAL*.

#### A. Sound Around Marketed Wireless Microphones That Were Noncompliant or Not Authorized

12. All devices that intentionally emit radio frequency energy and are marketed in the United States, such as the subject wireless microphones marketed by Sound Around, must be properly authorized and identified in accordance with a Commission authorization.<sup>41</sup> Based on the FCC IDs and/or the operating parameters (including the frequencies of operation) provided by Sound Around during the investigation,<sup>42</sup> and pursuant to sections 2.803, 74.801, 74.802, and 74.851(f) of the Commission's rules, all of the wireless microphones at issue here were required to have been authorized in accordance with the Commission's certification procedures before they could have been marketed in the United States.<sup>43</sup> The

<sup>31</sup> *NAL*, 35 FCC Rcd at 3485-86, paras. 21-23.

<sup>32</sup> See *NAL* Response.

<sup>33</sup> See *NAL* Response at 4-7.

<sup>34</sup> See *id.* at 7-12.

<sup>35</sup> See *id.* at 12-17.

<sup>36</sup> See *id.* at 17-22.

<sup>37</sup> 47 U.S.C. § 503(b).

<sup>38</sup> 47 CFR § 1.80.

<sup>39</sup> *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 (1997) (*Forfeiture Policy Statement*), *recons. denied*, Memorandum Opinion and Order, 15 FCC Rcd 303 (1999).

<sup>40</sup> 47 U.S.C. § 503(b)(2)(E).

<sup>41</sup> See 47 CFR pt. 2, Subpart I; see also 47 CFR § 2.926. There are limited exceptions to the authorization requirement; however, none of them apply here. See 47 CFR § 2.803(c).

<sup>42</sup> 2019 LOI Response at Exh. A.

<sup>43</sup> 47 CFR §§ 2.803, 74.801, 74.802, 74.851(f).

32 wireless microphone models at issue here were noncompliant because they were either (i) authorized and operating contrary to their authorizations (twenty-three models) or (ii) not authorized at all (nine models).

13. In its NAL Response, Sound Around never asserts that the Company was not marketing these 32 models of wireless microphones during the NAL period (from April 3, 2019, to April 3, 2020).<sup>44</sup> Rather, it takes issue with the Commission's evidence, makes convoluted and unsupported assertions regarding the Company's purported inability to have sold products promoted on its websites, and sets forth an incorrect legal standard for what constitutes equipment marketing.<sup>45</sup> Sound Around argues that although the Commission identified in the *NAL* two screenshots (April 9, 2019 screenshot of *pyleusa.com*; January 20, 2020 screenshot of *pyleaudio.com*) demonstrating marketing efforts, those websites did not actually allow anyone to purchase anything, and it was only in March 2020 that Sound Around's *pyleusa.com* website began to process sales.<sup>46</sup> Sound Around further claims that to prove a violation of the equipment marketing rules, the Commission must show that the Company had the "the intention or ability to sell or lease" the wireless microphones at issue, and that screenshots of its websites with the wireless microphones with prices, a shopping cart, and purchase information do not prove that a person could have actually bought one of the microphones.<sup>47</sup> Sound Around essentially argues it had no intention or ability to sell these microphones on either of its websites during the NAL period.

14. We disagree. Notwithstanding Sound Around's protests to the contrary, the Commission established that the Company marketed 32 models of noncompliant wireless microphones that were not authorized or were operating contrary to their authorizations.<sup>48</sup> We find as a factual matter that Sound Around was marketing the subject wireless microphones during the period covered by the *NAL*, based upon the April 2019 screenshot, the January 2020 screenshot, and the Company's admissions in its sworn responses to the Commission. Nothing presented by Sound Around in its NAL Response convinces us that a consumer could not buy one of the subject microphones from Sound Around during the NAL period.<sup>49</sup> Notably, Sound Around never states the wireless microphones could not be purchased from the Company. Rather, it merely claims, without supporting evidence, that the Company's websites did not allow purchases. Yet, the Company, in its LOI responses, admitted that marketing occurred on the websites and never stated that any of its websites did not facilitate purchases.<sup>50</sup> In particular, in Sound

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<sup>44</sup> See generally NAL Response. The Company does raise issues with how the Commission determined the number of wireless microphone models at issue and with five models that it alleges had been previously discontinued. See NAL Response at 15-17. We address those claims below, *infra*, at paras. 32 and 33.

<sup>45</sup> See NAL Response at 4-7.

<sup>46</sup> NAL Response at 5 ("In April 2019 ... nothing could in fact be purchased via [*pyleusa.com*]... it was not until March 2020 that [Sound Around] updated its technology systems to enable sales via *PyleUSA.com*."); *id.* at 6 ("PyleAudio.com is a legacy [Sound Around] website that is made available only for informational purposes, including to provide information (user manuals, warranty information) about products no longer being sold.").

<sup>47</sup> See *id.* at 4-5.

<sup>48</sup> See *NAL*, 35 FCC Rcd at 3484, para. 17.

<sup>49</sup> Sound Around never states the subject microphones were unavailable on its other websites, Amazon.com, or otherwise.

<sup>50</sup> In a response submitted in September 2017, Sound Around reported that it sold large volumes of products and that its primary sales channels were through Amazon and the Company's own websites, *pyleusa.com* and *pyleaudio.com*. See Declaration of Abraham Brach, Attach. to Letter from Max Moskowitz, Esq., Counsel to Sound Around, Inc, Ostrolenk Faber LLP, at 3-4 (A. Brach Decl.), to Aspasia A. Paroutsas, Chief, Spectrum Enforcement Division, FCC Enforcement Bureau, (Sept. 1, 2017) (on file in EB-SED-17-00024010) (September 1st 2017 Response). In another instance, the Company explained that due to its "massive sales," it retains only about a year's worth of electronic records on the wireless microphones that it sells. See A. Brach Decl. at 9. Finally, in June 2019 a Company officer stated that Sound Around "routinely markets thousands" of different products in the United (continued...)

Around's September 1st 2017 Response, the Company stated it owned and used two websites: pyleaudio.com and pyleusa.com.<sup>51</sup> When asked to provide copies of marketing materials, including "offers for sale," the Company responded, "See company website," after identifying pyleusa.com and pyleaudio.com as the Company's websites.<sup>52</sup> Despite providing three LOI responses and two additional submissions, Sound Around never indicated that pyleusa.com or pyleaudio.com were not capable of processing sales. To the contrary, in his declaration accompanying the 2019 LOI Response, Company officer Jerry Brach stated that Exhibit A of the response provided frequencies for wireless microphones "advertised" on pyleusa.com as of April 29, 2019.<sup>53</sup>

15. During the NAL period, Sound Around's websites contained far more than a mere depiction of a product and a shopping cart, undermining its claim that sales were not possible on pyleusa.com or pyleaudio.com. The April 9, 2019 and January 28, 2020 screenshots evidence marketing by Sound Around of the subject wireless microphones, and Sound Around's claims to the contrary are specious. As described in the *NAL*, on April 9, 2019, the Division took a screenshot of one of Sound Around's websites, pyleusa.com, which showed all of the wireless microphone models that were being marketed by the Company at that time and amounted to 82 microphone models.<sup>54</sup> The website contained no indication that the models being advertised could not actually be purchased at the time, and a company officer under penalty of perjury provided a list of advertised frequencies for each of these devices.<sup>55</sup> The screenshot showed the website contained images, descriptions, and prices of the wireless microphones. The web address of the website shown in the screenshot included the word "shop." The screenshot included a banner from the website that includes the menu option "SHOP." The screenshot also included text from the website stating to "Become a Dealer." The screenshot showed a shopping cart in the upper righthand corner. The screenshot also showed if each model was "out of stock" or available to "ADD TO CART."<sup>56</sup> A filter option was displayed on the left-hand side of the website that allowed a viewer to "SHOP BY" categories such as price, stock status (discontinued or out of stock), or product condition (discontinued or refurbished), among others. Several of the models displayed star ratings based on reviews, indicating a purchaser had left a review of the model. Likewise, the January 28, 2020 screenshot included many of the same indications of marketing, including menu options to "Become a Dealer" and Manufacturer Suggested Retail Prices (MSRPs) for many wireless microphone models, including each of the ones identified in the *NAL*.<sup>57</sup>

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States, and never mentions that pyleusa.com is not a fully functioning website. See Declaration of Jerry Brach, Attach. to 2019 LOI Response at 2-3 (J. Brach Decl.).

<sup>51</sup> See A. Brach Decl. at 3; see also *id.* at 3-4 (providing sales figures and sale dates for wireless microphone models PDWM94 and PDWM96 that were implicated in the *NAL*); *id.* at 9 (the Company responded to a request for copies of advertisements of the wireless microphones, including PDWM94 and PDWM96, by pointing to its website); September 19 LOI Response at 4, attach. SA035 (providing sales figures and sales dates for additional wireless microphones).

<sup>52</sup> See *id.* at 9.

<sup>53</sup> J. Brach Decl. at 3, para. 10.

<sup>54</sup> *NAL*, 35 FCC Rcd at 3481-82, paras. 11-12. See also Sound Around, *Microphone Systems – Musical Instruments – Products*, <https://www.pyleusa.com/shop/musical-instruments/microphone-systems.html> (screenshot taken Apr. 9, 2019) (on file in EB-SED-17-00024010).

<sup>55</sup> J. Brach Decl. at 3, paras. 10,11. Even accepting Sound Around's claim that pyleusa.com could not actually process any purchases, notably, Sound Around does not deny that the subject wireless microphones were available for purchase from Sound Around on April 9, 2019 by some other means. Additionally, Sound Around provides no explanation as to what would happen if a viewer added a product to the cart. See *NAL* Response at 5.

<sup>56</sup> The *NAL* did not find apparent violations for models that were "out of stock."

<sup>57</sup> See *NAL*, 35 FCC Rcd at 3482, para 11. See also Sound Around, Pyle - Musical Instruments - Microphone Systems, <http://www.pyleaudio.com/products/Musical-Instruments/Microphone-Systems> (screenshot taken Jan. 28, 2020) (on file in EB-SED-17-00024010).

16. Sound Around also argues that its 2019 LOI Response indicated that none of the 32 microphone models at issue were “for sale on pyleusa.com” as of June 7, 2019, the date of its 2019 LOI Response.<sup>58</sup> The Company argues that this “calls into question” whether the devices shown on the pyleusa.com website and identified in the Division’s 2019 LOI “were actually being marketed at that time.”<sup>59</sup>

17. We are unpersuaded. First, the Company does not affirmatively state the microphones were not marketed during that period. Aside from raising questions in the NAL Response<sup>60</sup> – questions designed to undermine the Company’s own LOI responses, including its sworn declaration – no further explanation or evidence was provided by the Company regarding the period during which the subject microphones were marketed. Second, the evidence previously provided by the Company supports a finding that the Company was marketing noncompliant devices during the NAL period. The Company’s 2019 LOI Response consisted of a cover letter from its attorney,<sup>61</sup> a declaration from a Company officer,<sup>62</sup> and an Excel spreadsheet identified as Exhibit A. In the declaration, Company officer, Jerry Brach, stated that Exhibit A of the response provided frequencies “advertised” on pyleusa.com or in the Company’s database for devices on pyleusa.com as of April 29, 2019.<sup>63</sup> Further, the Company officer stated that Exhibit A showed any model “currently being sold or which was sold at any time since January 1, 2017,” indicating the microphones were marketed after January 1, 2017.<sup>64</sup> Even if we accept the Company’s claim that the 2019 LOI Response indicates that devices were not being marketed on the one day, June 7, 2019, when the 2019 LOI Response was submitted, this does not contradict evidence showing marketing occurred, including the April 9, 2019 screenshot and the admission that the 32 models were being marketed as of at least April 29, 2019. Further undermining the Company’s credibility, the pyleusa.com website continued to show that 19 of the 32 models were still being marketed by Sound Around on January 27, 2022,<sup>65</sup> 17 of the models were still being marketed on both April 4, 2022, and April 15,

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<sup>58</sup> See NAL Response at 5-6; 2019 LOI Response, Exhibit A. Even in claiming that the pyleaudio.com and pyleusa.com websites were not capable of processing sales during the period April to June 2019, the Company admits that the websites contain product information for models previously marketed thereon. See NAL Response at 6-7.

<sup>59</sup> See *id.*

<sup>60</sup> See *supra* para. 13.

<sup>61</sup> See 2019 LOI Response.

<sup>62</sup> J. Brach Decl.; see *supra* note 50.

<sup>63</sup> J. Brach Decl. at 3, para. 10.

<sup>64</sup> *Id.* at 3, para. 11. No microphones models which were identified as not marketed after January 1, 2017, were included in the *NAL*.

<sup>65</sup> The 19 models being marketed as of January 2022, as shown in screenshots, are PDWM1800, PDWM2115, PDWM2135, PDWM2140, PDWM2145, PDWM2560, PDWM3365, PDWM3375, PDWM3378, PDWM3400, PDWM4350U, PDWM4540, PDWM4560, PDWM4700, PDWM8225, PDWM8250, PDWM8275, PDWM8900, PSUFM1280B. See Sound Around, *Microphone Systems – Products*, <https://pyleusa.com/collections/microphone-systems> (screenshots taken Jan. 27, 2022) (on file in EB-SED-17-00024010). Moreover, a recent review of the user manual of PDWM2140, available online, contains none of the required FCC information and is not the same user manual for the alleged FCC ID that is included in the OET database. Sound Around, *PDWM2140 User Manual*, <http://manuals.pyleusa.com/PDF/PDWM2140.pdf> (saved Jan. 31, 2022) (on file in EB-SED-17-00024010); see also Sound Around, *PDWM2140*, <https://pyleusa.com/products/pdwm2140> (screenshot taken Jan. 31, 2022) (on file in EB-SED-17-00024010).



2022,<sup>66</sup> and 14 of the models were still being marketed on June 9, 2022,<sup>67</sup> despite the Company's claim that none of the models implicated in the *NAL* were currently offered for sale "on the pyleusa.com website or otherwise."<sup>68</sup>

18. Further, Sound Around's claim that pyleusa.com could not process purchases until March 2020 is simply not credible.<sup>69</sup> For instance, The Internet Archive captured a record of the pyleusa.com/shop.html website on April 17, 2017, that showed prices for devices, "Deals of the Day," "Best Sellers," "ADD TO CART" for listed products, and a shopping cart, among other indicia of marketing.<sup>70</sup>

19. Even if the websites were not capable of processing sales, which we do not find credible, the depictions of the subject wireless microphones on the websites along with their descriptions and prices demonstrates that the Company was *marketing* these products as a legal matter.<sup>71</sup> Under the Commission's equipment marketing rules, the marketing of a device prior to its authorization or without an authorization constitutes a violation of the rules.<sup>72</sup> The Commission's rules define marketing to include the "sale or lease, or offering for sale or lease, including advertising for sale or lease, or importation, shipment, or distribution for the purpose of selling or leasing or offering for sale or lease."<sup>73</sup> The actual sale of an unauthorized device is not necessary to prove a marketing violation.<sup>74</sup> Nor is the Commission required to purchase every suspect product on a website to show that a company is

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<sup>66</sup> The 17 models being marketed on both April 4, 2022 and April 15, 2022, as shown in screenshots, are PDWM1800, PDWM2115, PDWM2135, PDWM2140, PDWM2145, PDWM2560, PDWM3365, PDWM3375, PDWM3378, PDWM3400, PDWM4350U, PDWM4540, PDWM4560, PDWM4700, PDWM8225, PDWM8900, PSUFM1280B. See Sound Around, *Microphone Systems – Products*, <https://pyleusa.com/collections/microphone-systems> (screenshots taken Apr. 4, 2022 and Apr. 15, 2022) (on file in EB-SED-17-00024010).

<sup>67</sup> The 14 models being marketed on June 9, 2022, as shown in screenshots, are PDWM1800, PDWM2135, PDWM2140, PDWM2145, PDWM2560, PDWM3365, PDWM3375, PDWM3378, PDWM3400, PDWM4350U, PDWM4540, PDWM4700, PDWM8225, PSUFM1280B. See Sound Around, *Microphone Systems – Products*, <https://pyleusa.com/collections/microphone-systems> (screenshots taken June 9, 2022) (on file in EB-SED-17-00024010).

<sup>68</sup> *NAL* Response at 21.

<sup>69</sup> *NAL* Response at 5.

<sup>70</sup> See Sound Around, *Pyle – Musical Instruments - Microphone Systems*, <https://web.archive.org/web/20170412224214/https://www.pyleusa.com/shop.html> (Apr. 17, 2017) (screenshot on file in EB-SED-17-00024010).

<sup>71</sup> See 47 CFR §§ 2.803(a), 74.851(f).

<sup>72</sup> See 47 CFR § 2.803(b); see also 47 U.S.C. § 302a(b) (providing that the Commission's equipment-authorization rules apply not to only the sale but also to the manufacture, import, offering for sale, and shipping of devices).

<sup>73</sup> See 47 CFR § 2.803(b).

<sup>74</sup> See *Behringer USA, Inc.*, Notice of Apparent Liability for Forfeiture and Order, 21 FCC Rcd 1820 (2006), *forfeiture ordered*, 22 FCC Rcd 10451, 10454 para. 9 (2007) (forfeiture paid) (*Behringer*) ("Section 2.803(a)'s prohibition explicitly covers the offering (including the advertising) for sale or lease of unauthorized equipment. The record established, and Behringer does not dispute, that both the SRC2000 and BLM420 were advertised on its website and included in its price lists. Consistent with precedent, we find that the inclusion of the SRC2000 and BLM420 on Behringer's website and its price lists constituted marketing and as such were prohibited under Section 2.803(a).") (footnote omitted); *ACR Electronics, Inc.*, Notice of Apparent Liability for Forfeiture, 19 FCC Rcd 22293, 22299 para. 15 (2004), *forfeiture ordered*, 21 FCC Rcd 3698 (2006) (forfeiture paid) (finding that the manufacturer violated section 2.803(a) by distributing promotional materials and price lists for unauthorized devices).

marketing such a product when every indicia on such a website indicates advertising for sale.<sup>75</sup> We therefore reject the Company's legal argument that "[d]epiction of a product on a website, even with the depiction of a cart, is not, in and of itself, evidence that the product is offered for purchase or lease, and thus does not provide evidence of a violation."<sup>76</sup>

20. Finally, Sound Around's repeated claims that it did not understand the equipment marketing rules do not exonerate, excuse, or mitigate its violations.<sup>77</sup> Ignorance of the law does not excuse or release companies from their legal obligations.<sup>78</sup> The *Marketing Citation* in 2011, which warned the Company to stop marketing noncompliant devices, provided notice of those legal obligations.<sup>79</sup> Additional letters of inquiry in 2017 alerted the Company that marketing noncompliant devices was unlawful.<sup>80</sup> Similarly, the Commission will not accept the excuse that a marketer relied on a manufacturer's representations about compliance to its detriment. Section 2.803(b) of the Commission's rules states that "no person" may market a noncompliant radio frequency device to consumers.<sup>81</sup> This rule is not limited to manufacturers.<sup>82</sup>

21. Accordingly, we find no merit in Sound Around's contention that the websites were being offered only for informational purposes and were not intended as advertisements or offers for sale during the period of the *NAL*. Rather, Sound Around marketed the noncompliant wireless microphones in violation of the Act and the Commission's rules. Further, as noted above,<sup>83</sup> the Company appears to be continuing to market some of the same noncompliant radio frequency devices addressed in this Forfeiture Order. We direct the Bureau to investigate the Company's ongoing marketing of these and any other noncompliant radio frequency devices.

#### **B. The Proposed Forfeiture Amount Is Appropriate**

22. After considering the relevant statutory factors and the Commission's *Forfeiture Policy Statement*, we affirm the *NAL* and find that Sound Around is liable for a total forfeiture of \$685,338. As explained in the *NAL*, this total resulted from first applying a \$7,000 base forfeiture for each the 32 models of noncompliant equipment marketed by Sound Around. This base forfeiture amount is set forth in the Commission's rules for "marketing of unauthorized equipment" and has long been applied in this

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<sup>75</sup> See *ABC Fulfillment Servs. LLC d/b/a Hobbyking USA LLC & Hobbyking.com; & Indubitably, Inc. d/b/a Hobbyking Corp., Hobbyking USA LLC, Hobbyking, & Hobbyking.com*, Notice of Apparent Liability for Forfeiture, 33 FCC Rcd 5530, 5541 para. 12 (2018) (*Hobbyking*) (online marketing of noncompliant drone accessories), Forfeiture Order, 35 FCC Rcd 7441 (2020), Memorandum Opinion and Order, 36 FCC Rcd 10688 (2021); *Bear Down Brands, LLC DBA Pure Enrichment*, Notice of Apparent Liability for Forfeiture, 33 FCC Rcd 5449, 5452, para. 7, note 21 (May 30, 2018) (noncompliant models marketed online) (forfeiture paid).

<sup>76</sup> *NAL* Response at 7.

<sup>77</sup> *NAL* Response at 21-22.

<sup>78</sup> *Presidential Who's Who, Inc.*, Forfeiture Order, 29 FCC Rcd 3451, 3454, para. 10 (2014) ("ignorance of the law does not exonerate, excuse, or mitigate violations") (citing *Start Wireless Group, Inc. D/B/A Page Plus Cellular*, Notice of Apparent Liability for Forfeiture, 27 FCC Rcd 350, 354 (EB 2012); *Dynasty Mortgage, LLC*, Notice of Apparent Liability for Forfeiture, 20 FCC Rcd 4921, 4929 (2005); *Southern California Broadcasting Co.*, Memorandum Opinion and Order, 6 FCC Rcd 4387, 4388 (1991), *recon. denied*, 7 FCC Rcd 3454 (1992)).

<sup>79</sup> See 47 U.S.C. § 503(b)(5) (providing for citations before issuance of a notice of apparent liability); see *infra* paras. 24-26. The company also received an LOI in 2009 preceding the *Marketing Citation* indicating marketing noncompliant devices was prohibited. *Marketing Citation*, 26 FCC Rcd at 9475, para. 3.

<sup>80</sup> See *e.g.*, *supra* note 19.

<sup>81</sup> 47 CFR § 2.803(b).

<sup>82</sup> Any disagreement a marketer has with a manufacturer is a private matter between those two entities.

<sup>83</sup> See *supra* para. 17, notes 65 and 66.

manner in equipment marketing cases.<sup>84</sup> Next, the Commission evaluated whether any upward or downward adjustment factors were applicable, as it is obligated to do by the Act and the Commission's rules,<sup>85</sup> and found that certain upward adjustment factors were present.<sup>86</sup> The Commission upwardly adjusted the base forfeiture for the marketing violations because Sound Around apparently had marketed noncompliant devices since at least 2009.<sup>87</sup> This long history of repeated and continuous marketing of non-compliant wireless microphones warranted a significant upward adjustment.<sup>88</sup> For two of these models, the Commission further upwardly adjusted the forfeiture to the statutory maximum because those models presented an egregious threat to public safety.<sup>89</sup> Specifically, the marketing of the two microphone models was egregious because these models operated in the aviation band and therefore had potential for causing harmful interference to a critical public safety radio service.<sup>90</sup>

23. We reject Sound Around's arguments that the proposed forfeiture calculation is factually flawed, arbitrary, and excessive.<sup>91</sup> The Commission carefully considered each of the relevant requirements in the *NAL*,<sup>92</sup> and we do so again here. The proposed forfeiture amount, including the base forfeiture and upward adjustments, is consistent with our rules and precedent. Having reviewed Sound Around's arguments, we find no basis to cancel or reduce the forfeiture.

**1. The Marketing Citation Makes Sound Around Subject to the Monetary Penalty in the *NAL***

24. Where an entity that has violated a statutory provision or rule does not hold an FCC license or authorization, the Commission must issue a non-monetary citation to the entity before issuing to it a notice of apparent liability.<sup>93</sup> If the entity persists in the conduct after receiving a warning, the Commission can pursue a monetary penalty.<sup>94</sup>

25. The Commission issued Sound Around a citation in 2011 for equipment marketing violations involving wireless microphones.<sup>95</sup> Sound Around claims that this citation cannot be relied upon in issuing the *NAL* because the citation is old (from 2011) and does not cite Sound Around for the same violations alleged in the *NAL*.<sup>96</sup> Sound Around states that the *Marketing Citation* "never mentions

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<sup>84</sup> 47 CFR § 1.80(b); *see, e.g., Behringer*, 21 FCC Rcd at 1826, para. 19.

<sup>85</sup> 47 U.S.C. § 503(b)(2)(E); 47 CFR § 1.80(b)(10), Note to paragraph (b)(10); *see also Forfeiture Policy Statement*, 12 FCC Rcd at 17100, para. 27.

<sup>86</sup> *See NAL*, 35 FCC Rcd at 3485, para. 21.

<sup>87</sup> *See Marketing Citation*, 26 FCC Rcd at 9475-76, paras. 3-6 (Sound Around's noncompliant marketing goes back to at least 2009).

<sup>88</sup> *NAL*, 35 FCC Rcd at 3485-85, para. 22.

<sup>89</sup> *NAL*, 35 FCC Rcd at 3486, para. 23.

<sup>90</sup> *See id.*; *see also* 2019 LOI Response at Exhibit A (Sound Around states that microphone models PDWM94 and PDWM96 operate on the frequencies 117.5/114.5 MHz); 47 CFR §§ 2.106, 87.173 (frequencies 108-117.975 MHz are set aside for aviation-related uses).

<sup>91</sup> *See NAL Response* at 12.

<sup>92</sup> *See NAL*, 35 FCC Rcd at 3485-87, paras. 20-24.

<sup>93</sup> 47 U.S.C. § 503(b)(5). A citation is not required where the entity is engaging in activities for which a Commission authorization is required and certain other scenarios, which are not applicable here. *See id.*

<sup>94</sup> *See* 47 U.S.C. § 503(b)(5).

<sup>95</sup> *See Marketing Citation*.

<sup>96</sup> *See NAL Response* at 11.

[s]ection 2.803(b)(1), on which the *NAL* is premised.”<sup>97</sup> Sound Around also claims different subsections of section 74.851 were at issue in the *NAL* and the *Marketing Citation*.<sup>98</sup>

26. Sound Around is wrong as a matter of law and fact. Section 503(b)(5) of the Act specifically states that a “person shall not be entitled to receive any additional citation of the violation charged, with respect to any conduct of the type described in the citation sent under this paragraph.”<sup>99</sup> Section 1.80(d) of the Commission’s rules says the same thing.<sup>100</sup> In the *Marketing Citation*, Sound Around was cited for marketing wireless microphones that operate on restricted frequencies in violation of section 302(b) of the Act and sections 2.803 and 15.205(a) of the Commission’s rules,<sup>101</sup> and for marketing wireless microphones that are capable of operating in the 700 MHz band (698-806 MHz) in violation of section 74.851(g) of the Commission’s rules.<sup>102</sup> In the *NAL*, the Commission found that Sound Around apparently violated section 302(b) of the Act<sup>103</sup> and sections 2.803 and 74.851 of the Commission’s rules<sup>104</sup> when it marketed 32 models of wireless microphones that were noncompliant or not authorized.<sup>105</sup> In violating the equipment marketing requirements in both instances, Sound Around subsequently (in this proceeding) engaged in “conduct of the type described” in the earlier proceeding (for the *Marketing Citation*). In both instances, Sound Around marketed noncompliant wireless microphones, including some of the same models. Thus, the *NAL* appropriately proposed a forfeiture for the subsequent conduct.<sup>106</sup> Accordingly, the Commission, having issued the *Marketing Citation* in 2011, was correct to proceed to the *NAL* in 2020 and may now proceed to assess a monetary forfeiture for conduct of the type described in that citation.

27. For this same reason, we reject Sound Around’s argument about different rule subsections being cited in the *Marketing Citation* and *NAL*. Neither the statute nor the rules are so myopic as to permit evasion of a citation simply because some of the models have changed or the devices are designed to operate on different frequencies.<sup>107</sup> Rather, both the *Marketing Citation* and *NAL* reference “conduct of the type” engaged in previously.<sup>108</sup> The conduct here, which was targeted both in

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<sup>97</sup> *See id.*

<sup>98</sup> *See id.*

<sup>99</sup> 47 U.S.C. § 503(b)(5).

<sup>100</sup> *See* 47 CFR 1.80(d) (second citation not required where the violator “[s]ubsequently engages in conduct of the type described in the [prior] citation”).

<sup>101</sup> 47 U.S.C. § 302a(b); 47 CFR §§ 2.803, 15.205(a).

<sup>102</sup> 47 CFR § 74.851(g).

<sup>103</sup> 47 U.S.C. § 302a.

<sup>104</sup> 47 CFR §§ 2.803, 74.851.

<sup>105</sup> *NAL*, 35 FCC Rcd at 3482, para. 13.

<sup>106</sup> *See Radar Sols., Ltd. v. FCC*, 628 F. Supp. 2d 714, 730-31 (W.D. Tex. 2009), *aff’d sub nom.* 368 F. App’x 480 (5th Cir. 2010) (*Radar Sols*) (The court rejected an argument that the FCC should have issued a new citation prior to issuing the challenged Notice of Apparent Liability for Forfeiture (NAL) where the FCC had already sent a citation for marketing an “allegedly similar device” and the citation had broadly warned that the device in the citation “‘and any other similar device’ acting as an ‘intentional radiator’ was in violation of FCC rules and regulations.” Because the target was previously warned about marketing a device, the subsequent marketing of a similar device was “conduct of the type in the citation,” and the NAL was allowed under section 503(b)(5) of the Communications Act. The court found that, “[t]he principle animating these rules, as Plaintiff itself argues, is that the FCC must provide notice of potentially unlawful behavior before it may issue an NAL.”).

<sup>107</sup> *See id.*; *see also HobbyKing*, Forfeiture Order, 35 FCC Rcd at 7447-49, paras. 17-21 (prior citation for marketing drone accessories supported subsequent Notice of Apparent Liability for marketing other, similar drone accessories).

<sup>108</sup> 47 U.S.C. § 503(b)(5) (providing that a notice of apparent liability may be issued if the person served with a citation “subsequently engages in conduct of the type described in such citation”); 47 CFR 1.80(d) (same).

the *Marketing Citation* and *NAL*, is marketing noncompliant or unauthorized wireless microphones.<sup>109</sup> In fact, the *Marketing Citation* warned Sound Around to review the Commission's rules for all wireless microphones that it marketed.<sup>110</sup> Thus, the relevant requirements are the radio frequency equipment marketing rules, not the narrow subsections cited by Sound Around.<sup>111</sup>

28. Moreover, even were we to accept the Company's reading, which we do not, its argument would still fail. The numbering difference for section 2.803 subsections that Sound Around points to is merely the result of that rule section being reordered in 2013,<sup>112</sup> which resulted in the relevant language for this proceeding being moved from section 2.803(a)(1) (as cited in the *Marketing Citation*)<sup>113</sup> to section 2.803(b)(1) (as cited in the *NAL*)<sup>114</sup>.<sup>115</sup> Similarly, Sound Around appears to be focused on the fact that the *Marketing Citation* found violations of section 74.851(g), while the *NAL* found apparent violations of section 74.851(f). Putting aside the fact that Sound Around misstates which subsection of 74.851 was cited in which document,<sup>116</sup> we find no merit in this argument because both sections pertain to the regulations for the marketing of low power auxiliary stations, which include wireless microphones. Thus, when it received the *Marketing Citation* in 2011, Sound Around received notice of the Commission's long-standing equipment authorization regulations and was informed that they apply to wireless microphones.<sup>117</sup>

29. Finally, there is no expiration date for a citation set forth in the Act or the Commission's rules. The Commission did not "unearth" a stale document, as Sound Around implies in its *NAL* Response.<sup>118</sup> Rather, in 2011 the Bureau put Sound Around on notice that it needed to comply with the equipment marketing rules, and six years later the Company received the 2017 LOI indicating that the

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<sup>109</sup> Compare *Marketing Citation*, 26 FCC Rcd at 9476-77, para. 7-10 (outlining equipment marketing rules and requirement for an authorization for wireless microphones) (footnotes omitted), with *NAL*, 35 FCC Rcd at 3479, para. 3 (same).

<sup>110</sup> See *Marketing Citation*, 26 FCC Rcd at 9477, para. 10 ("To the extent that Sound Around markets wireless microphones that operate outside the 700 MHz frequency band, such as in the core TV bands (channels 2-51, excluding channel 37), it should review the Commission Rules that apply to such devices.") (footnote omitted). The Enforcement Bureau warning to Sound Around about its other wireless microphones identified sections 15.216 and 74.802(e) of the Commission's rules as examples of the rules that Sound Around should review. *Id.* at n.28. The Enforcement Bureau also provided an internet link to the rules. *Id.*

<sup>111</sup> See *Radar Sols*, 628 F. Supp. 2d at 730-31 (new citation was not necessary because earlier citation for a similar device provided notice).

<sup>112</sup> See *Promoting Expanded Opportunities For Radio Experimentation and Market Trials Under Part 5 of the Commission's Rules and Streamlining Other Related Rules*, Report and Order, 28 FCC Rcd 758 (2013).

<sup>113</sup> See *Marketing Citation*, 26 FCC Rcd at 9476, para. 7.

<sup>114</sup> *NAL*, 35 FCC Rcd at 3479, para. 3.

<sup>115</sup> The textual differences in the language are non-substantive. Compare 47 CFR § 2.803(a)(1) (2011) ("[N]o person shall sell or lease, or offer for sale or lease (including advertising for sale or lease), or import, ship, or distribute for the purpose of selling or leasing or offering for sale or lease, any radio frequency device unless: (1) In the case of a device subject to certification, such device has been authorized by the Commission in accordance with the rules in this chapter and is properly identified and labelled as required by § 2.925 and other relevant sections in this chapter . . ."), with 47 CFR § 2.803(b)(1) (2020) ("(b) General rule. No person may market a radio frequency device unless: (1) For devices subject to authorization under certification, the device has been authorized in accordance with the rules in subpart J of this chapter and is properly identified and labeled as required by § 2.925 and other relevant sections in this chapter . . .").

<sup>116</sup> See *NAL* Response at 11 (incorrectly stating that the *Marketing Citation* found a violation of section 74.851(f) and the *NAL* stated a violation of section 74.851(g)).

<sup>117</sup> See 47 U.S.C. § 503(B)(5).

<sup>118</sup> See *NAL* Response at 11 ("the Commission unearthed a nine-year-old citation against [the Company]").

Bureau had begun to investigate the Company for additional violations of the same type as identified in the *Marketing Citation*.<sup>119</sup> And, in 2020, this investigation led to the issuance of the *NAL*. While there are circumstances under which an excessive passage of time *may* suggest a second citation could be appropriate (even if not required), the period here is consistent with precedent in moving directly from a citation to a forfeiture proceeding. For example, a Commission Notice of Apparent Liability for Forfeiture has been upheld as appropriate in a case where the Commission issued the accompanying citation ten years prior to its issuance of the Notice of Apparent Liability for Forfeiture.<sup>120</sup> Here, the *NAL* was issued nine years after the *Marketing Citation*, and the Company was aware of the second investigation a mere six years after receiving that citation.

## 2. The Forfeiture is Properly Based on 32 Noncompliant Equipment Models

30. The evidence establishes that Sound Around marketed 32 noncompliant wireless microphone models. We find no merit in Sound Around's claims that some of the models are identical and the Commission overcounted the alleged violations by treating each product number as an independent model of wireless microphone.<sup>121</sup> The Company states that 21 of the 32 models identified in the *NAL's* Appendix can be grouped into four different categories of models because their transmitters have the same technical characteristics and should therefore be counted as four violations instead of twenty-one violations. In making its claim, Sound Around provided model numbers for the 21 models and descriptions of each category based solely on the physical appearance of the microphones.<sup>122</sup>

31. Sound Around's wireless microphone models each required an equipment authorization and compliant labeling, pursuant to sections 2.803(b)(1) and 74.851(f) of the Commission's rules, prior to Sound Around marketing them.<sup>123</sup> In cases where a subsequent model is electrically identical to a model that was originally tested and marketed, the original model's authorization may attach to the subsequent model.<sup>124</sup> Generally, to be considered electrically identical, devices must have the same basic frequency determining and stabilizing circuitry (including clock and data rates), frequency multiplication stages, basic modulator circuit, maximum power, and field strength ratings.<sup>125</sup> The Company, however, did not provide any technical documentation, such as diagrams of circuit layouts or testing, to support its claim that the devices are identical. Without such information, Sound Around has failed to provide any

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<sup>119</sup> See 2017 LOI.

<sup>120</sup> See *Radar Sols.*, 628 F. Supp. 2d at 720-22, 730-31 (Citation issued February 12, 1997 and Notice of Apparent Liability for Forfeiture issued January 31, 2007).

<sup>121</sup> See *NAL* Response at 12-14.

<sup>122</sup> See *id.* The groupings proposed by Sound Around are as follows: (1) Handheld Wireless Microphones with Black Wind Screen Tops: PDWM8325, PFSUM1280B, PDWM2130; (2) Handheld Wireless Microphones with Silver Wind Screen Tops: PDWM2560, PDWM8250, PDWM8225, PDWM13UH, PDWM4360U, PDWM3360; (3) Desk Set Wireless Microphones: PDWM4650, PDWM4700, PDWM8350; (4) Belt-pack Wireless Microphones with Lavalier/Headset Microphones: PDWM4350U, PDWM3400, PDWM8275, PDWM4540, PDWM1904, PDWM12UH, PDWM2145, PDWM2115, PDWM8374.

<sup>123</sup> 47 CFR § 2.803(b)(1); see also *supra* para. 12.

<sup>124</sup> See 47 CFR §§ 2.907(b), 2.908.

<sup>125</sup> See 178919 D01 Permissive Change Policy v05r03, Federal Communications Commission, Office of Engineering and Technology, Laboratory Division Public Draft Review, available at <https://apps.fcc.gov/kdb/GetAttachment.html?id=N0FeGuIZalHwpzYoaFJpA%3D%3D> (Oct. 16, 2015).

evidence to support its claim.<sup>126</sup> Accordingly, we reject the Company's claim that certain models are identical.<sup>127</sup>

32. Sound Around also claims that five of the subject microphones had not been sold for more than a year prior to the release of the *NAL* and therefore should not be counted as violations in accordance with the statute of limitations.<sup>128</sup> However, because the Company has not presented any evidence in support of its claim, aside from its unsupported statement in the *NAL* Response, and because a company does not have to sell a model to be in violation for marketing the model,<sup>129</sup> we conclude that Sound Around was marketing the five microphones during the applicable period and they were appropriately counted as violations.<sup>130</sup> There is ample evidence Sound Around marketed the five wireless microphones during the relevant timeframe of the *NAL*.<sup>131</sup>

33. Next, Sound Around contends that seven of the thirty-two models of wireless microphones should not be counted as violations because they were authorized and labeled in accordance with the equipment marketing rules.<sup>132</sup> Yet, the operating frequencies shown in the photographs provided by Sound Around in its *NAL* Response for four of the seven models are for frequencies other than those authorized based on the FCC IDs provided. The following chart indicates the discrepancies between the alleged FCC ID and the operating frequencies of four of the seven wireless microphones newly claimed in the Company's 2020 *NAL* Response.

Model	FCC ID provided by Sound Around in 2020 <i>NAL</i> Response	Frequencies authorized by FCC ID provided in 2020 <i>NAL</i> Response	Frequencies indicated on photographs provided by Sound Around in 2020 <i>NAL</i> Response
PDWM2135	QSRHT-35A	614.2-697.8 MHz	209.15 MHz & 183.57 MHz

<sup>126</sup> See, e.g., *Behringer*, 22 FCC Rcd at 10454-56, paras. 10-13 (rejecting claim that certain models were identical because Behringer failed to provide sufficient documentation to support the claim); *Amer-I-Net Services Corp.*, Order of Forfeiture, 15 FCC Rcd 3118, 3123, para. 16 (2000) (rejecting carrier's unsubstantiated factual claims about its compliance plan).

<sup>127</sup> Additionally, in claiming that some of the models are identical, the Company claims that models with different FCC IDs are supposedly identical. See *NAL* Response at 12-14. For example, the proposed grouping "Handheld Wireless Microphones with Black Wind Screen Tops," includes wireless microphone models with different FCC IDs and involves different types of microphones: QSRHT-35A (licensed broadcast transmitter held to face) and QSRPT-25 (licensed broadcast transmitter worn on body). This proposed grouping also includes a device for which Sound Around has not provided an FCC ID, PDWM13UH. Sound Around provides no explanation for why these FCC IDs are different for purported identical devices or why an FCC ID was not previously provided in its 2019 LOI Response for a purported identical device.

<sup>128</sup> See *NAL* Response at 15. See also 47 U.S.C. § 503(b)(6).

<sup>129</sup> See *supra* paras. 14-19.

<sup>130</sup> The five microphone models are PDWM2130, PDWM4360U, PDWM3360, PDWM8374, and PDWM94. See *NAL* Response at 15.

<sup>131</sup> See *supra* paras. 14-18.

<sup>132</sup> See *NAL* Response at 15-17. The seven models are PDWM1800, PDWM4520, PDWM3375, PDWM3378, PDWM2135, PDWM2140, and PDWM4560. Sound Around included an exhibit in its response which contains a table showing the FCC ID for each of the seven model numbers, and photos of each model which show the FCC ID's affixed to each device, along with frequencies on which each device operates. See *NAL* Response at Exhibit. Previously, Sound Around claimed it did not know the FCC ID of model PDWM2140, see 2019 LOI Response at Exh. A, which is curious if such microphones were labeled as claimed in the *NAL* Response.

PDWM2140	QSRPT-15 QSRHT-35A	614.2-697.8 MHz 614.2-697.8 MHz	197.15 MHz 175.50 MHz
PDWM3378	QSRHT-25 QSRPT-25	614.2-697.8 MHz 614.2-697.8 MHz	573-597.8 MHz 573-597.8 MHz
PDWM4560	QSRPT-15	614.2-697.8 MHz	596.20 MHz 572.10 MHz

34. Sound Around even acknowledges that these models have operating frequencies displayed in the photographs that are inconsistent with the supposed authorized frequencies but claims the Commission's rules do not prohibit labeling with inconsistent frequencies.<sup>133</sup> The Company asks the Commission to find that the FCC ID displayed is accurate even though the frequencies displayed are not. The Company again provides no technical or other relevant information that would allow the Commission to evaluate its claims, and we do not find the Company's new claims credible in light of the previously submitted information. Accordingly, we continue to find that the four models were noncompliant with the Act and the Commission's rules.

35. For the other three models, the Company provides new frequencies in the NAL Response on the affixed labels that now match the frequencies authorized under the claimed FCC IDs.<sup>134</sup> However, this new information does not demonstrate that the models were compliant during the period covered by the *NAL*.<sup>135</sup> In light of the fact that the Company provided contemporaneous evidence in its sworn 2019 LOI Response showing that these three models had the capability to operate on unauthorized frequencies in 2019,<sup>136</sup> we do not agree that the photos submitted later, without proof that the photos depict the microphones from the investigation timeframe, negate our earlier finding that the three models were marketed in violation of the equipment marketing rules during the period covered by the *NAL*.<sup>137</sup> If these microphones were authorized, labeled, and operated compliant with their authorizations during the timeframe covered by the *NAL*, the Company should have responded as such in the 2019 LOI Response. Instead, the Company provided information that such devices operated contrary to their claimed authorizations at that time.

36. Finally, we reject Sound Around's general complaint that the Commission should have better attempted to understand the discrepancies contained in its various LOI Responses.<sup>138</sup> Companies that receive LOIs must timely file complete and accurate responses to the Bureau's questions.<sup>139</sup> Here, Sound Around provided three LOI responses and two additional submissions over a period of approximately two years, which is ample opportunity to provide accurate information.<sup>140</sup> This culminated

<sup>133</sup> See NAL Response at 17, note 41.

<sup>134</sup> These are models PDWM1800, PDWM3375, and PDWM4520.

<sup>135</sup> See 47 U.S.C. § 503(b)(6)(B). The applicable period is April 3, 2019 – April 3, 2020.

<sup>136</sup> See 2019 LOI Response at Exh. A.

<sup>137</sup> The NAL Response contains no information on when the photos were taken or any other authenticating information. See generally NAL Response

<sup>138</sup> NAL Response at 9.

<sup>139</sup> See 47 U.S.C. §§ 154(i), 154(j), 403, 503(b)(1)(B); 47 CFR § 1.17; *SBC Commc 'ns, Inc.*, Forfeiture Order, 17 FCC Rcd 7589, 7599-7600, paras. 23-28 (2002); *Message Commc 'ns, Inc.*, Notice of Apparent Liability for Forfeiture, 29 FCC Rcd 8214, 8216-17, paras. 9-12 (EB 2014); *Calling Post Commc 'ns, Inc.*, Notice of Apparent Liability for Forfeiture, 29 FCC Rcd 8208, 8210-11, paras. 8-11 (EB 2014); *Digital Antenna, Inc.*, Notice of Apparent Liability for Forfeiture and Order, 23 FCC Rcd 7600, 7601-02, paras. 6-8 (EB 2008), *consent decree ordered*, Order and Consent Decree, 28 FCC Rcd 12587 (EB 2013)).

<sup>140</sup> See *NAL*, 35 FCC Rcd at 3480-81, paras. 8-9.



with the 2019 LOI asking the Company to fill out a simple chart.<sup>141</sup> Thus, contrary to Sound Around's claim, the Commission's investigation was thorough; it was the Company's responses that were lacking.<sup>142</sup> Moreover, Sound Around provided a declaration claiming its 2019 LOI Response was factually accurate.<sup>143</sup> The 2019 LOI required the Company to update its LOI response "(a) if the Company learns that, in some material respect, the documents and information initially disclosed were incomplete or incorrect or (b) if additional responsive documents or information are acquired by or become known to the Company after the initial production."<sup>144</sup> The Company never provided an update to any of its LOI responses. Nothing contained in Sound Around's subsequent NAL Response provides specific countervailing factual information for the NAL period. Therefore, the Commission appropriately relied on Sound Around's representations in the *NAL*.<sup>145</sup>

37. For the foregoing reasons, we continue to assess the forfeiture amount based on 32 models.

### 3. The Facts Support Upward Forfeiture Adjustments.

38. Sound Around was assessed upward adjustments on all models for its long history of marketing noncompliant radio frequency devices and, regarding two models, for egregious threats to public safety.<sup>146</sup> Sound Around argues that the upward adjustments are unwarranted.<sup>147</sup>

39. First, Sound Around argues that the Commission should rescind or reduce the upward adjustment for egregiousness, which is based on the Company's marketing of two wireless microphones (PDWM94 and PDWM96) that were capable of operations in the aviation band, because no evidence was provided to prove that the models operate in the aviation band.<sup>148</sup> We disagree. As an initial matter, the Company never actually states that these two models were not capable of operating in the aviation band. Indeed, in the investigation leading to the *Marketing Citation*, the Company had previously provided advertising that indicated those wireless microphones operated in the aviation band.<sup>149</sup> Rather, it argues that the Commission didn't prove this basis to support the upward adjustment. Contrary to this assertion, the Commission relied on information provided by the Company under penalty of perjury to support this upward adjustment. The Company, in its 2019 LOI Response, provided the operating frequencies for

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<sup>141</sup> 2019 LOI.

<sup>142</sup> NAL Response at 9.

<sup>143</sup> See J. Brach Decl.

<sup>144</sup> 2019 LOI at 8.

<sup>145</sup> See *Application of WorldCom, Inc., and MCI Communications Corporation for Transfer of Control of MCI Communications Corporation to WorldCom, Inc.*, Memorandum Opinion and Order, 13 FCC Rcd 18025, 18134, para. 193 (1998) (citing 47 CFR § 1.17 for proposition that, in light of the duty to be truthful and accurate in representations to the Commission, statements provided to the Commission are awarded substantial weight in the absence of persuasive evidence to the contrary).

<sup>146</sup> See, e.g., *Midessa Television Ltd. P'ship*, Notice of Apparent Liability for Forfeiture, 29 FCC Rcd 13247, 13250-51, para. 11 (2014) (upward adjustment for the base forfeiture because of extended duration of the violation) (forfeiture paid); *Union Oil Co. of Cal.*, Notice of Apparent Liability for Forfeiture, 27 FCC Rcd 13806, 13810-11, paras. 10-11 (2012) (upward adjustment of the base forfeiture because of extended duration of the violation) (forfeiture paid).

<sup>147</sup> See NAL Response at 17-20.

<sup>148</sup> See *id.* at 18.

<sup>149</sup> See *Marketing Citation*, 26 FCC Rcd at 9475-76, para. 4 ("In its December 6, 2009 response to the LOI, Sound Around . . . provides a marketing flyer that confirms that two of the wireless microphones, Models PDWM94 and PDWM96, operate on frequencies 114-116 MHz, which are within the 108-121.94 MHz restricted frequency band.").

models PDWM94 and PDWM96, which indicate that the models operate in the aviation band.<sup>150</sup> This response was supported by a sworn declaration of a Company officer.<sup>151</sup> The Company, however, now claims that the manner in which information was presented in this response was unreliable and “should have alerted the Commission that something was amiss” and that “the Commission should have dug deeper.”<sup>152</sup>

40. We find no merit in the Company’s argument that the Division should have “dug deeper.” In fact, as noted in the *NAL*, the reason for the Division’s 2019 LOI was to resolve the inconsistencies in the Company’s earlier responses.<sup>153</sup> The 2019 LOI was a direct and simple attempt to address conflicting information provided by the Company in its earlier responses. Commission staff asked for FCC IDs and frequencies for the wireless microphone models and received FCC IDs and frequencies for the same wireless microphone models. Staff reasonably relied on that information. The only thing “amiss” now is the Company’s statement that something was wrong with the 2019 LOI Response, which is devoid of any information to support that the device models could not operate in the aviation band or any technical, testing, or other information that would allow us to conclude that the frequencies the microphones actually operate on are not in the aviation band.<sup>154</sup> In fact, after the Commission issued the *NAL*, the Company stated on April 17, 2020, in response to a question on Amazon.com, that the microphone PDWM94 operates on frequencies in the aviation band.<sup>155</sup> We therefore reject Sound Around’s argument that the upward adjustment for egregiousness should be rescinded or reduced.

41. Second, Sound Around claims that the Commission has not provided evidence of a continuing violation that is sufficient to support the upward adjustment.<sup>156</sup> As outlined in the *NAL*,<sup>157</sup> the Company does not deny it has been continuously marketing noncompliant radio frequency devices since at least 2009 (when the Bureau began its first investigation of Sound Around).<sup>158</sup> The Division observed noncompliant wireless microphones being marketed on the pyleusa.com and pyleaudio.com websites over a period of several years, leading first to the *Marketing Citation* in 2011 and then to the *NAL* in 2020.<sup>159</sup>

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<sup>150</sup> 2019 LOI Response at Exhibit A.

<sup>151</sup> See J. Brach Decl.

<sup>152</sup> See *NAL* Response at 18.

<sup>153</sup> See *NAL*, 35 FCC Rcd at 3481, para. 9.

<sup>154</sup> See *supra* note 126.

<sup>155</sup> *Amazon.com*, Pyle UHF Professional Mic with Adapter Receiver - Dual Function Wired/Wireless Mic System, Karaoke Mic Control w/ Portable Vocal Audio, for Stage Performances or In-Studio Use - SereneLife PDWM94, <https://www.amazon.com/UHF-Professional-Adapter-Receiver-Studio/dp/B0007LCMFS> (last visited Mar. 25, 2022) (screenshot on file in EB-SED-17-00024010) (“Question: Is this one of the microphones you are getting an fcc fine? one of the earlier posts noted it was transmitting in the us aircraft band. Answer: Hi, *the product operates between 114MHz to 116MHz*, so it is not affected by the FCC ban on the 700MHz band. You may check other details of the unit by visiting our website pyleaudio.com. Type the model number on the search box PDWM94 for more details. Thank you. *By Pyle S. MANUFACTURER on April 17, 2020*”) (emphasis added); see 47 CFR § 2.106 (108-117.975 MHz set aside for aviation and Aeronautical Radionavigation); see also *supra* note 11 (same).

<sup>156</sup> See *NAL* Response at 20.

<sup>157</sup> *NAL*, 35 FCC Rcd at 3485-86, para. 22.

<sup>158</sup> See *Marketing Citation*, 26 FCC Rcd at 9475-76, para. 3 (“In its December 6, 2009 response to the LOI, Sound Around admits to importing and marketing the wireless microphones in the United States...”) (footnote omitted).

<sup>159</sup> The *Marketing Citation* noted Division staff observed noncompliant marketing on September 29, 2009, November 18, 2009, July 21, 2010, September 17, 2010, September 29, 2010, June 8, 2011, and June 9, 2011. See *Marketing Citation*, 26 FCC Rcd at 9475-76, para. 3, n.4; *id.* at 9476, para. 6, n.16. Following the complaint in 2016, Division staff observed noncompliant marketing on at least October 11, 2017, June 22, 2018, April 9, 2019, and January 28, 2020.

Moreover, in making this argument, Sound Around focuses on models PDWM94 and PDWM96, which are the two models that were marketed as being capable of operating in the aviation bands. However, the upward adjustment for the continuing and repeated nature of the violations is based on the marketing of the other 30 noncompliant radio frequency device models and not limited to models PDWM94 and PDWM96.<sup>160</sup> And, ironically for the Company, PDWM94 and PDWM96 were two of the models for which the *Marketing Citation* was issued; thus demonstrating the Company's long history of marketing these two models.<sup>161</sup> Given these facts, we find no merit in the Company's argument that we have not provided evidence of a continuing violation.

42. Finally, Sound Around argues that it is not engaged in the communications business and did not fully understand the Division's inquiries, and therefore the forfeiture amount should be cancelled or reduced.<sup>162</sup> But the Act recognizes that an entity that does not hold a license, permit, certificate, or other authorization issued by the Commission may be less likely to be aware of its statutory obligations, and therefore provides that it must be served with a non-monetary citation for a first infraction and may be assessed a forfeiture only if it "subsequently engages in conduct of the type described in such citation"<sup>163</sup>—a process the Division followed here.<sup>164</sup> Having received a citation for engaging in unlawful marketing of radio frequency devices, continued ignorance of the law does not excuse or mitigate the violations here.<sup>165</sup> In addition, Sound Around stated that it was working to put procedures in place to ensure compliance with the equipment marketing rules, and that none of the models listed in the Appendix of the *NAL* are currently being sold by the Company on the *pyleusa.com* website or otherwise.<sup>166</sup> As noted earlier, however, the *pyleusa.com* website continues to show that many of the models are still being marketed by the Company.<sup>167</sup> Thus, the Company evidences no intent to comply with the Commission's equipment marketing rules.

#### IV. CONCLUSION

43. Based on the record before us and in light of the applicable statutory factors, we conclude that Sound Around willfully and repeatedly violated section 302(b) of the Act and sections 2.803(b)(1) and 74.851(f) of the Commission's rules by marketing 32 noncompliant models of wireless microphones that were not authorized in accordance with the Commission's rules. We decline to cancel or reduce the \$685,338 forfeiture proposed in the *NAL*.<sup>168</sup>

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<sup>160</sup> See *NAL*, 35 FCC Rcd at 3485, para. 21.

<sup>161</sup> See *Marketing Citation*, 26 FCC Rcd at 9475-76, paras. 3-6.

<sup>162</sup> See *NAL* Response at 21.

<sup>163</sup> 47 U.S.C. § 503(b)(5)(C).

<sup>164</sup> See *Marketing Citation*.

<sup>165</sup> See *Lakewood Broad. Serv., Inc.*, Memorandum Opinion and Order, 37 FCC 2d 437, 438, para. 6 (1972) (denying a mitigation claim based on a licensee's assertion of unfamiliarity with station identification requirements, reasoning that "[i]f ignorance of [the Rules] were accepted as an excuse, we would be encouraging licensees to know as little as possible").

<sup>166</sup> See *id.*

<sup>167</sup> See *supra* notes 65 and 66.

<sup>168</sup> 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.

**V. ORDERING CLAUSES**

44. Accordingly, **IT IS ORDERED** that, pursuant to section 503(b) of the Act<sup>169</sup> and section 1.80 of the Commission's rules,<sup>170</sup> Sound Around, Inc. **IS LIABLE FOR A MONETARY FORFEITURE** in the amount of six hundred and eighty-five thousand three hundred and thirty-eight dollars (\$685,338) for willfully and repeatedly violating section 302(b) of the Act<sup>171</sup> and sections 2.803(b)(1) and 74.851(f) of the Commission's rules.<sup>172</sup>

45. Payment of the forfeiture shall be made in the manner provided for in section 1.80 of the Commission's rules within thirty (30) calendar days after the release of this Forfeiture Order.<sup>173</sup> Sound Around, Inc. shall send electronic notification of payment to [EB-SED-Response@fcc.gov](mailto:EB-SED-Response@fcc.gov) on the date said payment is made. If the forfeiture is not paid within the period specified, the case may be referred to the U.S. Department of Justice for enforcement of the forfeiture pursuant to section 504(a) of the Act.<sup>174</sup>

46. Payment of the forfeiture must be made by credit card using the Commission's Registration System (CORES) at <https://apps.fcc.gov/cores/userLogin.do>, ACH (Automated Clearing House) debit from a bank account, or by wire transfer using the Commission's Registration System (the Commission's FRN Management and Financial system).<sup>175</sup> The Commission no longer accepts Civil Penalty payments by check or money order. Below are instructions that payors should follow based on the form of payment selected:<sup>176</sup>

- Payment by wire transfer must be made to ABA Number 021030004, receiving bank TREAS/NYC, and Account Number 27000001. In the OBI field, enter the FRN(s) captioned above and the letters "FORF". In addition, a completed Form 159 or printed CORES form must be faxed to the Federal Communications Commission at 202-418-2843 or e-mailed to [RROGWireFaxes@fcc.gov](mailto:RROGWireFaxes@fcc.gov) on the same business day the wire transfer is initiated. Failure to provide all required information in Form 159 or CORES may result in payment not being recognized as having been received. When completing FCC Form 159 or CORES, 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). 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 CORES at <https://apps.fcc.gov/cores/userLogin.do>. To pay by credit card, log-in using the FCC Username associated to the FRN captioned above. If payment must be split across FRNs, complete this process for each FRN. Next, select "Manage Existing FRNs | FRN Financial | Bills & Fees" from the CORES Menu, then select FRN Financial and the view/make payments option next to the FRN. Select the "Open Bills" tab and find the bill number associated with the NAL Acct. No. The bill number is the NAL Acct. No. with the first two digits excluded (e.g., NAL 1912345678 would be associated with FCC Bill Number 12345678). After selecting the bill for payment,

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<sup>169</sup> 47 U.S.C. § 503(b).

<sup>170</sup> 47 CFR § 1.80.

<sup>171</sup> 47 U.S.C. § 302a(b).

<sup>172</sup> 47 CFR §§ 2.803(b)(1), 74.851(f).

<sup>173</sup> *Id.*

<sup>174</sup> 47 U.S.C. § 504(a).

<sup>175</sup> Payments made using CORES do not require the submission of an FCC Form 159.

<sup>176</sup> For questions regarding payment procedures, please contact the Financial Operations Group Help Desk by phone at 1-877-480-3201 (option #1).

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 CORES at <https://apps.fcc.gov/cores/userLogin.do>. To pay by ACH, log in using the FCC Username associated to the FRN captioned above. If payment must be split across FRNs, complete this process for each FRN. Next, select “Manage Existing FRNs | FRN Financial | Bills & Fees” on the CORES Menu, then select FRN Financial and the view/make payments option next to the FRN. Select the “Open Bills” tab and find the bill number associated with the NAL Acct. No. The bill number is the NAL Acct. No. with the first two digits excluded (e.g., NAL 1912345678 would be associated with FCC Bill Number 12345678). Finally, 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.

47. **IT IS FURTHER ORDERED** that the Enforcement Bureau shall commence a further investigative and enforcement proceeding of Sound Around, Inc.’s apparent continued violations of section 302 of the Act and section 2.803 of the Commission’s rules.

48. **IT IS FURTHER ORDERED** that a copy of this Forfeiture Order shall be sent by first class mail and certified mail, return receipt requested, to Zigmond Brach, Chief Executive Officer, Sound Around, Inc., 1600 63<sup>rd</sup> Street, Brooklyn, New York 11204, and to Timothy J. Cooney, Esq., Wilkinson Barker Knauer, LLP, 1800 M Street, NW, Suite 800N, Washington, D.C. 20036.

FEDERAL COMMUNICATIONS COMMISSION

Marlene H. Dortch  
Secretary