

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

In the Matter of ) File No: EB-SED-22-00034112
Sound Around, Inc. ) NAL/Acct. No.: 202432100002
) FRN: 0028317733
)

NOTICE OF APPARENT LIABILITY FOR FORFEITURE

Adopted: December 12, 2023

Released: December 14, 2023

By the Commission:

TABLE OF CONTENTS

Heading Paragraph #
I. INTRODUCTION..... 1
II. BACKGROUND..... 2
A. Legal Background..... 2
1. Equipment Marketing Requirements..... 2
2. Duty to Provide Complete Responses to Enforcement Bureau Inquiries..... 6
B. Factual Background ..... 8
1. Prior Investigations..... 8
2. New Investigation..... 12
III. DISCUSSION..... 14
A. Sound Around Apparently Violated Section 302 of the Act and Section 2.803 of the Commission’s Rules ..... 15
B. Sound Around Apparently Violated Commission Orders with Incomplete LOI Responses..... 19
C. Proposed Forfeiture..... 24
IV. CONCLUSION ..... 35
V. ORDERING CLAUSES..... 36

I. INTRODUCTION

1. We propose a penalty of \$1,202,454 against Sound Around, Inc. (Sound Around or Company) for apparently violating section 302 of the Communications Act of 1934, as amended (the Act) and section 2.803 of the Commission’s rules through the marketing of noncompliant radio frequency devices and for failing to comply with Commission orders. Following an extensive investigation, the Commission finds that Sound Around marketed 33 radio frequency device models before the models had been authorized in accordance with the Commission’s rules. These apparent violations are compounded by the fact that the Company had earlier been cited and investigated for violations of the Commission’s equipment authorization and marketing requirements multiple times, with an earlier investigation resulting in a Forfeiture Order in 2022. Instead of complying with the Commission’s rules, Sound Around continued to market noncompliant radio frequency devices. Additionally, Sound Around provided incomplete responses to the Bureau’s inquiries in this investigation, thereby obstructing the Bureau’s investigation into the Company’s marketing practices and apparently violating two Commission orders. Accordingly, we propose a significant fine.

## II. BACKGROUND

### A. Legal Background.

#### 1. Equipment Marketing Requirements

2. 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>1</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>2</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.

3. Section 2.803(b)(1) of the Commission's rules provides that no person may market a radio frequency device that is subject to certification unless the device has been authorized in accordance with the rules and is properly identified and labeled.<sup>3</sup> Section 2.803(b)(2) bars the marketing of a device subject to authorization under a Supplier's Declaration of Conformity (SDOC) until "the device complies with all technical, labeling, identification and administrative requirements."<sup>4</sup> In the context of the Commission's equipment marketing rules, 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>5</sup>

4. Intentional radiators must be properly authorized and labeled in accordance with the Commission's equipment certification process prior to marketing.<sup>6</sup> Certification is an equipment authorization process that uses third-party Commission-recognized Telecommunication Certification Bodies to evaluate applications submitted by responsible parties (e.g., manufacturers or importers) to determine whether the device meets the technical requirements for authorization.<sup>7</sup> If a subsequent device model is electronically identical to a model that was originally tested and authorized, then the authorization of the originally tested model may attach to the subsequently marketed model.<sup>8</sup>

5. Unintentional radiators can be authorized with a certification or an SDOC authorization.<sup>9</sup> The procedure to obtain an SDOC is one in which the responsible party, as defined in section 2.909 of the Commission's rules,<sup>10</sup> tests the device to ensure that the device complies with the appropriate technical

---

<sup>1</sup> 47 U.S.C. § 302a(b); 47 CFR § 2.803; see *Sound Around, Inc.*, Notice of Apparent Liability for Forfeiture, 35 FCC Rcd 3478 (2020) (*Sound Around 2020 NAL*), Forfeiture Order, 37 FCC Rcd 9907 (2022) (*Sound Around 2022 Forfeiture Order*); see also *ABC Fulfillment Services LLC d/b/a HobbyKing USA LLC and HobbyKing.com, and Indubitably, Inc. d/b/a/ HobbyKing Corp., HobbyKing USA LLC, HobbyKing and HobbyKing.com*, Forfeiture Order, 35 FCC Rcd 7441, 7442, para. 5 (2020).

<sup>2</sup> 47 U.S.C. § 302a(b).

<sup>3</sup> See 47 CFR § 2.803(b)(1).

<sup>4</sup> *Id.* § 2.803(b)(2).

<sup>5</sup> *Id.* § 2.803(a).

<sup>6</sup> See *id.* § 15.201(b). An intentional radiator is "[a] device that intentionally generates and emits radio frequency energy by radiation or induction." *Id.* § 15.3(o).

<sup>7</sup> *Id.* § 2.907. The equipment certification procedures can be found in 47 CFR §§ 2.1031-2.1060.

<sup>8</sup> See *id.* §§ 2.907(b), 2.908.

<sup>9</sup> *Id.* § 15.3(z) ("Unintentional radiator. A device that intentionally generates radio frequency energy for use within the device, or that sends radio frequency signals by conduction to associated equipment via connecting wiring, but which is not intended to emit RF energy by radiation or induction."); *id.* § 15.101(a) (unintentional radiators require certification or Supplier's Declaration of Conformity authorization).

requirements.<sup>11</sup> Equipment is also subject to labeling requirements based on the equipment authorization procedure prescribed in the specific Commission rules that apply to the product.<sup>12</sup>

## 2. Duty to Provide Complete Responses to Enforcement Bureau Inquiries

6. The Commission's authority to conduct investigations and to compel entities to provide information and documents sought during investigations is well established.<sup>13</sup> Section 403 of the Act grants the Commission "full authority and power to institute an inquiry, on its own motion . . . relating to the enforcement of any of the provisions of this Act."<sup>14</sup> The Commission possesses broad investigatory authority and has repeatedly taken enforcement action against entities that disregard orders to provide information related to potential violations.<sup>15</sup> The Enforcement Bureau (Bureau) similarly has been delegated by the Commission authority to "conduct investigations . . . on its own initiative" of potential violations of the Act or the Commission's rules.<sup>16</sup>

7. Thus, Companies that receive letters of inquiry (LOIs) must timely file complete and accurate responses to the Bureau's questions because the LOI is an order of the Commission. Section 503(b)(1)(B) of the Act, in part, provides that a person who willfully or repeatedly fails to comply with a Commission rule or order shall be liable for a forfeiture penalty.<sup>17</sup> Therefore, failure to respond fully and in a timely manner to the Bureau's inquiries is punishable by a forfeiture.<sup>18</sup> The Commission and the

(Continued from previous page) \_\_\_\_\_

<sup>10</sup> *Id.* § 2.909.

<sup>11</sup> *See id.* § 2.906(a) ("Supplier's Declaration of Conformity (SDoC) is a procedure where the responsible party, as defined in § 2.909, makes measurements or completes other procedures found acceptable to the Commission to ensure that the equipment complies with the appropriate technical standards and other applicable requirements.").

<sup>12</sup> *Id.* §§ 2.925, 2.1074, 15.19(a)(3)-(5), 18.209(b).

<sup>13</sup> Section 4(i) of the Act authorizes the Commission to "issue such orders, not inconsistent with this Act, as may be necessary in the execution of its functions." 47 U.S.C. § 154(i). Section 4(j) states that "[t]he Commission may conduct its proceedings in such manner as will best conduce to the proper dispatch of business and to the ends of justice." *Id.* § 154(j). Section 403 grants the Commission both the authority to institute inquiries and "the power to make and enforce any order or orders" relating to its inquiries into compliance with the Act. *Id.* § 403. Section 0.111(a)(17) of the Commission's rules delegates this authority to the Bureau. *See* 47 CFR § 0.111(a)(17) (granting the Enforcement Bureau the authority to "[i]dentify and analyze complaint information, conduct investigations, conduct external audits and collect information, including pursuant to sections 218, 220, 308(b), 403 and 409(e) through (k) of the Communications Act, in connection with complaints, on its own initiative or upon request of another Bureau or Office").

<sup>14</sup> 47 U.S.C. § 403; *see, e.g., Lyca Tel, LLC*, Memorandum Opinion and Order, 31 FCC Rcd 12125 (2016).

<sup>15</sup> *See ABC Fulfillment Services LLC d/b/a HobbyKing USA LLC and HobbyKing.com, and Indubitably, Inc. d/b/a HobbyKing Corp., HobbyKing USA LLC, HobbyKing and HobbyKing.com*, Notice of Apparent Liability for Forfeiture, 33 FCC Rcd 5530 (2018), *aff'd*, Forfeiture Order, 35 FCC Rcd 7441 (2020), *recon. denied*, Memorandum Opinion and Order, 36 FCC Rcd 10688 (2021) (imposing a \$39,278 forfeiture for failure to fully respond to an LOI); *Net One Int'l, Net One, LLC, Farrahtel Int'l, LLC*, Forfeiture Order, 29 FCC Rcd 264, 267, para. 9 (EB 2014) (*Net One*), *recon. denied*, Memorandum Opinion and Order, 30 FCC Rcd 1021 (EB 2015).

<sup>16</sup> 47 CFR § 0.111(a)(17); *see also* 47 U.S.C. § 155(c)(3) ("Any order . . . or action made or taken pursuant to any [ ] delegation . . . shall have the same force and effect . . . and [be] enforced in the same manner, as orders . . . of the Commission.").

<sup>17</sup> 47 U.S.C. § 503(b)(1)(B).

<sup>18</sup> *See* 47 U.S.C. §§ 154(i), 154(j), 403, 503(b)(1)(B); *SBC Commc'ns, Inc.*, Forfeiture Order, 17 FCC Rcd 7589, 7599-7600, paras. 23-28 (2002) (*SBC*); *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).

Bureau have repeatedly taken enforcement action against entities that disregard orders to provide information related to potential violations of the Act or the Commission's rules.<sup>19</sup>

## **B. Factual Background**

### **1. Prior Investigations**

8. Sound Around, d/b/a Pyle Audio, is a privately held company located in Brooklyn, New York, that sells a variety of electronic products, including audio and video electronics and accessories for the home, car, professional users, and marine audio/video products through its own websites, as well as websites of third-party retailers such as Amazon.<sup>20</sup>

9. In 2011, the Bureau's Spectrum Enforcement Division (Division) cited the Company for marketing wireless microphones that were capable of operating in frequency bands other than those authorized and warned the Company to ensure its wireless microphones complied with the Commission's rules going forward.<sup>21</sup> During this investigation, Sound Around admitted that as far back as 2009 it had imported and marketed wireless devices from a company based in China, including devices that operated within a restricted frequency band.<sup>22</sup>

10. In 2016, the Bureau again began investigating whether the Company was marketing noncompliant wireless microphones. This investigation ultimately resulted in the Commission's issuance of the *Sound Around 2020 NAL* on April 3, 2020, which proposed to fine the Company \$685,338 for marketing 32 apparently noncompliant models of wireless microphones.<sup>23</sup> The wireless microphones were either unauthorized or operated contrary to their claimed authorization.<sup>24</sup> As found in the *Marketing Citation*, the Company marketed the microphones through its websites and other online sources.<sup>25</sup>

---

<sup>19</sup> See, e.g., *SBC*, 17 FCC Rcd at 7599-7600, paras. 23-28 (target violated a Commission Order when it failed to provide a sworn verification to a letter of inquiry issued by the Enforcement Bureau); see also *Net One*, 29 FCC Rcd at 267, para. 9 (target violated a Commission Order when it provided an incomplete response to a letter of inquiry issued by the Enforcement Bureau), *recon. denied*, Memorandum Opinion and Order, 30 FCC Rcd 1021 (EB 2015); *AllCom*, Notice of Apparent Liability for Forfeiture and Order, 25 FCC Rcd 9124, 9126-27, paras. 6-10 (EB 2010) (target violated a Commission Order when it provided no response to a letter of inquiry issued by the Enforcement Bureau); *Digital Antenna, Inc.*, Notice of Apparent Liability for Forfeiture and Order, 23 FCC Rcd 7600, 7601-02, paras. 6-8 (EB 2008), Order and Consent Decree, 28 FCC Rcd 12587 (EB 2013) (target violated a Commission Order when it provided incomplete responses to letters of inquiry issued by the Enforcement Bureau and provided no sworn verification supporting its incomplete responses).

<sup>20</sup> See Letter from Wilkinson Barker Knauer LLP, to Spectrum Enforcement Division, FCC Enforcement Bureau at 1, 3 (Oct. 3, 2022) (LOI Response) (on file in EB-SED-22-00034112); see also *NAL*, 35 FCC Rcd at 3480, para. 6.

<sup>21</sup> See *Sound Around Inc.*, Citation, 26 FCC Rcd 9474, 9477, para. 10 (EB 2011) (*Marketing Citation*). The *Marketing Citation* noted that Sound Around engaged in unlawful marketing in 2009, 2010, and 2011. *Id.* at 9475-76, paras. 4-6. In the *Marketing Citation*, the Division found that the Company previously marketed four wireless microphone models that were ineligible for certification and therefore could not be marketed in compliance with the Commission's rules in the United States because they operated within restricted frequency bands listed in section 15.205(a) of the Commission's rules. *Id.* at para. 9. Sound Around also previously marketed a wireless microphone that was capable of operating within the 700 MHz frequency band, which is prohibited by section 74.851(g) of the Commission's rules. *Id.*

<sup>22</sup> *Id.* at 9475, para. 4.

<sup>23</sup> See *Sound Around 2020 NAL*, *supra* note 1, at 3484, para. 17.

<sup>24</sup> *Id.*

<sup>25</sup> See *id.* at para. 6.

11. On July 10, 2020, Sound Around filed a response to the *Sound Around 2020 NAL*.<sup>26</sup> After reviewing this response, the Commission issued the *Sound Around 2022 Forfeiture Order* on August 1, 2022, which upheld the *Sound Around 2020 NAL* and assessed the \$685,338 forfeiture previously proposed.<sup>27</sup> The *Sound Around 2022 Forfeiture Order* also directed the Bureau to begin a new investigation based on apparent evidence that the Company continued to market noncompliant devices.<sup>28</sup> To date, Sound Around has not paid the \$685,338 forfeiture.<sup>29</sup>

## 2. New Investigation

12. On August 2, 2022, the Bureau issued a letter of inquiry to Sound Around seeking equipment authorization and marketing information for all electronic devices marketed by the Company, not just wireless microphones.<sup>30</sup> In response to the LOI, the Company provided an incomplete LOI Response<sup>31</sup> and then submitted four additional incomplete responses.<sup>32</sup> Each of the responses purported to update or correct prior filings; however, all of them contained errors and incomplete, sometimes contradictory information. For example, some of the issues identified by the Bureau included the fact that the Company provided conflicting information regarding authorization dates, marketing dates, and product descriptions for nine FCC IDs identified in its various responses.<sup>33</sup> The issues with the Company's responses also included problems with seven test reports it submitted, such as test reports that were not relevant to our investigation because they showed compliance with European Union and Food and Drug Administration regulations, and test reports for devices that were not included on spreadsheets provided by Sound Around that purportedly included all electronic devices marketed by the Company.<sup>34</sup> In addition, Bureau staff collected independent evidence indicating that the responses were incomplete. This evidence included Sound Around's Amazon webpage, which showed the marketing of at least 45 models that were not disclosed in the Company's responses, and the Commission's equipment authorization database, which showed that Sound Around apparently obtained FCC authorizations that were also not disclosed in its LOI responses.<sup>35</sup>

---

<sup>26</sup> *Sound Around, Inc.*, Response to Notice of Apparent Liability (filed July 10, 2020) (NAL Response) (on file in EB-SED-17-00024010).

<sup>27</sup> See *Sound Around 2022 Forfeiture Order*, *supra* note 1, at 9925, para. 43.

<sup>28</sup> *Id.* at para. 47.

<sup>29</sup> We are not using the fact of the unpaid *Sound Around 2020 NAL* or *Sound Around 2022 Forfeiture Order* against the Company in this item, however, the Commission finds the underlying facts of those items and the prior investigations relevant to the present proceeding involving the Company. See *Infinity Radio Operations, Inc.*, Order on Review, 22 FCC Rcd 9824, 9827, para. 9 (2007).

<sup>30</sup> See Letter from Spectrum Enforcement Division, FCC Enforcement Bureau, to Sound Around, Inc., and Wilkinson Barker Knauer LLP (Aug. 2, 2022) (LOI) (on file in EB-SED-22-00034112).

<sup>31</sup> See LOI Response, *supra* note 20.

<sup>32</sup> See E-mail from Wilkinson Barker Knauer LLP, to Spectrum Enforcement Division, FCC Enforcement Bureau (Nov. 2, 2022, 20:05 EDT) (on file in EB-SED-22-00034112); E-mail from Wilkinson Barker Knauer LLP, to Spectrum Enforcement Division, FCC Enforcement Bureau (Nov. 15, 2022, 18:57 EST) (on file in EB-SED-22-00034112); E-mail from Wilkinson Barker Knauer LLP, to Spectrum Enforcement Division, FCC Enforcement Bureau (Dec. 15, 2022, 17:25 EST) (on file in EB-SED-22-00034112); and E-mail from Wilkinson Barker Knauer LLP, to Spectrum Enforcement Division, FCC Enforcement Bureau (Jan. 13, 2022, 15:23 EST) (on file in EB-SED-22-00034112).

<sup>33</sup> See E-mail from Spectrum Enforcement Division, FCC Enforcement Bureau, to Wilkinson Barker Knauer LLP (Dec. 19, 2022, 12:16 EST) (on file in EB-SED-22-00034112).

<sup>34</sup> See *id.*

<sup>35</sup> See Letter from Spectrum Enforcement Division, FCC Enforcement Bureau, to Wilkinson Barker Knauer LLP at 1-2 (Mar. 16, 2023) (Further LOI) (on file in EB-SED-22-00034112). For example, the Company did not provide

(continued....)

13. Thus, in order to clarify the operative facts of the investigation, the Bureau sent the Further LOI to Sound Around on March 16, 2023, documenting the failure to respond fully to the LOI, and noting that the Company needed to respond in full and to take due diligence in ensuring the accuracy of the filing.<sup>36</sup> Subsequently, Bureau staff granted the Company's request for an extension of time to respond to the Further LOI, and Sound Around submitted its Further LOI Response on May 31, 2023.<sup>37</sup> Upon reviewing Sound Around's Further LOI response, Bureau staff identified additional deficiencies in the response, including omitted information about models the Company marketed, and sent a Deficiency Letter to the Company on August 2, 2023.<sup>38</sup> The Deficiency Letter identified areas of the Company's responses to the Commission inquires that were incomplete and requested further information on models and FCC IDs for which the Company provided incomplete information. Sound Around responded to that letter on August 9, 2023, and provided additional information on models marketed by the Company that had been previously omitted.<sup>39</sup> The Company then responded to an email from the Bureau<sup>40</sup> seeking clarification on certain models on September 22, 2023.<sup>41</sup>

### III. DISCUSSION

14. We find that Sound Around apparently willfully and repeatedly violated section 302 of the Act and section 2.803(b)(1) of the Commission's rules when it marketed 33 radio frequency models prior to obtaining an equipment authorization or that were not authorized.<sup>42</sup> Three models had no authorization and thirty models were marketed by Sound Around prior to being authorized.<sup>43</sup> Sound Around's apparent violations of the Act and the Commission's rules occurred notwithstanding the previously issued *Marketing Citation* and subsequent investigations documented in the *Sound Around 2020 NAL* and *Sound Around 2022 Forfeiture* Order that addressed the same type of violations by the Company, its marketing of noncompliant radio frequency devices. Additionally, we find that Sound Around apparently violated two Commission orders when it provided incomplete responses to the LOI and the Further LOI. Accordingly, the Commission proposes a forfeiture of \$1,202,454.

#### A. Sound Around Apparently Violated Section 302 of the Act and Section 2.803 of the Commission's Rules

15. Devices that unintentionally or intentionally emit radio frequency energy typically must be authorized in accordance with the Commission's rules prior to their being advertised or sold in the United States.<sup>44</sup> Specifically, section 302(b) of the Act provides that "[n]o person shall manufacture,

(Continued from previous page) \_\_\_\_\_  
information on model PBMKRG155, advertised as a Bluetooth speaker, in any of its LOI responses prior to the issuance of the Further LOI. *See id.*, Appendix A. The LOI had specifically identified Bluetooth speakers as a type of device that should be disclosed. *See* LOI, *supra* note 30, at 2.

<sup>36</sup> *See* Further LOI at 2.

<sup>37</sup> *See* E-mail from Wilkinson Barker Knauer LLP, to Spectrum Enforcement Division, FCC Enforcement Bureau (May 31, 2023, 23:38 EDT) (Further LOI Response) (on file in EB-SED-22-00034112).

<sup>38</sup> *See* Letter from Spectrum Enforcement Division, FCC Enforcement Bureau, to Wilkinson Barker Knauer LLP (Aug. 2, 2023) (Deficiency Letter) (on file in EB-SED-22-00034112).

<sup>39</sup> *See* Letter from Wilkinson Barker Knauer LLP, to Spectrum Enforcement Division, FCC Enforcement Bureau (Aug. 9, 2023) (Deficiency Letter Response) (on file in EB-SED-22-00034112).

<sup>40</sup> E-mail from Spectrum Enforcement Division, FCC Enforcement Bureau, to Wilkinson Barker Knauer LLP (Sept. 15, 2023, 13:35 EDT) (on file in EB-SED-22-00034112).

<sup>41</sup> E-mail from Wilkinson Barker Knauer LLP, to Spectrum Enforcement Division, FCC Enforcement Bureau (Sept. 22, 2023, 16:09 EDT) (Clarification E-mail) (on file in File No. EB-SED-22-00034112).

<sup>42</sup> 47 U.S.C. § 302a(b); 47 CFR § 2.803(b)(1)-(2).

<sup>43</sup> *See infra* Appendix (for example, entry 1 involves a model that was marketed prior to obtaining an authorization and entries 29, 31, and 32 involve models for which no authorization had apparently been obtained).

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>45</sup> Section 2.803(b)(1)-(2) of the Commission’s rules provide that no person may market a radio frequency device that is subject to certification or SDOC unless the device has previously been authorized in accordance with the rules and is properly identified and labeled.<sup>46</sup>

16. Based on the Company’s filings in this investigation, Sound Around marketed 33 radio frequency models that were not authorized at the time they were being marketed or sold. The subject device models, which are listed in the Appendix, required an authorization, either a certification or SDOC, based on the operational characteristics of each device, also identified in the Appendix. The Bluetooth devices, wireless microphones, and FM transmitters advertised and sold by Sound Around required certification as intentional radiators.<sup>47</sup> The non-wireless devices, e.g., digital keyboards, listed in the Appendix required an SDOC or certification as unintentional radiators.<sup>48</sup>

17. As shown in the chart contained in the Appendix, Sound Around marketed devices that required an authorization prior to obtaining that authorization or without ever obtaining an authorization. Rows 1 to 24 of the Appendix reflect devices that are intentional radiators and required a certification based on the capabilities of the devices (e.g., Bluetooth, wireless microphones, FM transmitters), but Sound Around admits to marketing these devices for periods of time, sometimes months, prior to obtaining an authorization. For example, row 1 shows that Sound Around marketed model PDWR62BTBK starting on October 31, 2021, but acknowledges that it only obtained an authorization with FCC ID 2A5J3-HYB1065B5 on April 6, 2022, for its Bluetooth capability, reflecting several months of marketing an unauthorized device. Rows 25 to 30 show the Sound Around models that required SDOC prior to marketing as unintentional radiators but were marketed prior to that authorization.<sup>49</sup> Finally, the devices listed in rows 31 to 33 were never authorized; Sound Around admits that it did not obtain an authorization, the FCC ID provided does not apply to the device, or the FCC ID provided does not cover the full capabilities of the device.

18. For rows 3, 8, 10, 19, and 20 of the Appendix, Sound Around’s claimed date of first marketing is contradicted by evidence on the Amazon product webpage for the same device that shows earlier marketing. Sound Around has not adequately explained how the Amazon “Date First Available,” which indicates the date the device was first available for sale on Amazon, is not an accurate documentation of when the Company first marketed the device.<sup>50</sup> We find where the Amazon “Date First Available” precedes the date of authorization, the Company marketed the devices prior to authorization.

(Continued from previous page) \_\_\_\_\_

<sup>44</sup> See 47 CFR Part 2, Subpart I.

<sup>45</sup> 47 U.S.C. § 302a(b).

<sup>46</sup> 47 CFR § 2.803(b)(1), (b)(2).

<sup>47</sup> See *supra* para. 4; see also Fed. Comm’n Comm’n, *Equipment Authorization – RF Device*, available at <https://www.fcc.gov/oet/ea/rfdevice> (last visited Oct. 20, 2023).

<sup>48</sup> See *supra* para. 5.

<sup>49</sup> The Company provided the dates associated with the SDOC devices in rows 25-30 indicating when the SDOC process was complete and authorization was obtained. See *supra* note 11. Devices cannot be marketed until the appropriate authorization is obtained. 47 CFR § 2.803(b).

<sup>50</sup> See Clarification E-mail, *supra* note 41. Sound Around states that the Amazon “Date First Available” “does not necessarily reflect when the current version of a product was first sold by Sound Around.” *Id.* Sound Around fails to explain, however, the difference between the “current” and the earlier versions of the product, including FCC authorizations, when those earlier versions were sold, whether Sound Around sold those earlier versions of the product itself or whether they were sold to Amazon or to a third party that sold those versions on Amazon at an earlier date than claimed. See *id.*

Accordingly, we find that Sound Around unlawfully marketed 33 radio frequency devices in the United States in apparent violation of section 302 of the Act and section 2.803 of the Commission's rules.

**B. Sound Around Apparently Violated Commission Orders with Incomplete LOI Responses**

19. Sound Around also apparently willfully and repeatedly violated Commission orders by failing to respond fully to the LOI and Further LOI. Companies that receive LOIs must timely file complete and accurate responses to the Bureau's questions. Failure to respond timely and fully to the Bureau's inquiries violates a Commission order setting a deadline in which to provide all relevant information. A violation of a Commission order is punishable by a forfeiture penalty under the Act.<sup>51</sup> The Commission has delegated authority to the Bureau to request information, and the failure to provide a complete response hinders the Bureau's ability to investigate and therefore fundamentally affects the Bureau's ability to operate.<sup>52</sup>

20. Sound Around failed to respond fully to the LOI and Further LOI. Initially, the Company provided an incomplete response to the August 2, 2022 Letter of Inquiry, in which it noted that it was still compiling information and would submit a supplemental response by November 15, 2022.<sup>53</sup> Sound Around then submitted four additional incomplete responses to the LOI.<sup>54</sup> Each of the responses updated or corrected prior filings, and all of them contained errors, were incomplete, and at times contained contradictory information.<sup>55</sup>

21. Evidence developed independently by the Bureau also showed that the Company's responses were incomplete and necessitated the issuing of the Further LOI. First, Sound Around's Amazon page showed the marketing of at least 45 models that were not disclosed in the Company's responses.<sup>56</sup> Second, the Commission's equipment authorization database showed that the Company had obtained at least three FCC authorizations that were not disclosed in its LOI responses.<sup>57</sup> Additionally, the Company disclosed FCC IDs in LOI responses but failed to provide the required information on the marketing of the models covered by the FCC IDs, such as the dates on which the Company began and ceased advertising the models in the United States, the dates on which the Company began and ceased importing the models into the United States, and the dates on which the Company began and ceased sales of the models in the United States.<sup>58</sup>

22. In addition, Sound Around's response to the Further LOI was incomplete. Specifically, Inquiry 1 requested that Sound Around identify all radio frequency device models marketed by the Company.<sup>59</sup> Bureau staff discovered models that the Company appeared not to have disclosed in any of its responses, including its response to the Further LOI. The Company admitted in its response to the

---

<sup>51</sup> 47 U.S.C. § 503(b)(1)(B).

<sup>52</sup> See 47 U.S.C. §§ 154(i), 154(j), 403, 503(b)(1)(B); see also *supra* notes 13-19 and accompanying text.

<sup>53</sup> See LOI Response, *supra* note 20.

<sup>54</sup> See *id.*

<sup>55</sup> See *supra* para. 12.

<sup>56</sup> See Further LOI, *supra* note 35, at 1. The Bureau reviewed the Amazon page for Sound Around products comparing the models listed there with the models identified in the LOI Response. The Bureau identified at least 45 models on the Amazon page that Sound Around had not disclosed in the LOI Response.

<sup>57</sup> See *id.* at 1-2.

<sup>58</sup> See *id.* at 2. The LOI required the Company to report when marketing began for the Company's devices and this was not reported in the LOI Response for devices with FCC IDs 2A5X5-APBUTTON, 2A5X5-APOLLOV1, 2A5UW-PGMC3WPS4, 2A5UW-PGMC2WPS4, 2ASQDPDWM2135, 2ASQDPDWM2145. This information was not supplied by the Company until the Deficiency Letter Response.

<sup>59</sup> See Further LOI Response, *supra* note 37, at 4.



Deficiency Letter that it omitted models that should have been included in the earlier responses.<sup>60</sup> The Bureau also had to seek further clarifications after reviewing the Deficiency Letter Response. The information provided by the Company was incomplete because the FCC IDs provided by Sound Around for six devices did not cover the devices' wireless operations, and for three devices, the images and descriptions of the devices as advertised on Amazon did not match the device descriptions contained in the Commission authorizations.<sup>61</sup>

23. The Commission has consistently held that entities must provide timely and complete responses to an Enforcement Bureau inquiry.<sup>62</sup> Sound Around's failure to provide a complete response to the LOI and the Further LOI harmed the Commission by delaying the investigation and wasting Commission resources. Accordingly, we find that Sound Around apparently willfully and repeatedly violated two Commission orders by failing to respond fully to the LOI and Further LOI.

### C. Proposed Forfeiture

24. Section 503(b) of the Act authorizes the Commission to impose a forfeiture against any entity that "willfully or repeatedly fail[s] to comply with any of the provisions of [the Act] or of any rule, regulation, or order issued by the Commission."<sup>63</sup> Here, section 503(b)(2)(D) of the Act authorizes us to assess a forfeiture against Sound Around of up to \$23,727 for each violation or each day of a continuing violation, up to a statutory maximum of \$177,951 for a single act or failure to act.<sup>64</sup> In exercising our forfeiture authority, we must consider the "nature, circumstances, extent, and gravity of the violation and, with respect to the violator, the degree of culpability, any history of prior offenses, ability to pay, and such other matters as justice may require."<sup>65</sup> In addition, the Commission has established forfeiture guidelines, which provide base penalties for certain violations and identify criteria that we consider when determining the appropriate penalty in any given case.<sup>66</sup> Under these guidelines, we may adjust a

---

<sup>60</sup> Deficiency Letter Response, *supra* note 39, at 1-2.

<sup>61</sup> *See id.*

<sup>62</sup> *See* 47 U.S.C. § 403; *see also, e.g., Lyca Tel, LLC*, Memorandum Opinion and Order, 31 FCC Rcd 12125 (2016). Despite Sound Around's incomplete responses, the Bureau was able to determine that Sound Around was marketing noncompliant radiofrequency devices as described in the section above.

<sup>63</sup> 47 U.S.C. § 503(b). Sound Around is a holder of Commission authorizations; certifications such as the one associated with FCC ID 2A5X5-PDWR54BTB, which was granted to SOUND AROUND INC. *See, e.g.,* Appendix, row 6; *see also* Fed. Comm'n Comm'n, FCC ID Search, available at <https://www.fcc.gov/oet/ea/fccid> (last visited Oct. 20, 2023). Sound Around was also previously issued a Citation for equipment marketing. *See Marketing Citation, supra* note 21. As explained in detail in the *Sound Around 2022 Forfeiture Order*, because Sound Around previously was issued a citation for the type of conduct at issue in this investigation (i.e., radio frequency equipment marketing), even if Sound Around did not hold Commission authorizations the Commission could proceed to issue a notice of apparent liability for forfeiture in this matter without needing to first issue another Citation. *Sound Around 2022 Forfeiture Order, supra* note 1, at 9917-18, paras. 24-29 (*citing* 47 U.S.C. § 503(b)(5)).

<sup>64</sup> *See* 47 U.S.C. § 503(b)(2)(D); 47 CFR § 1.80(b)(10). These amounts reflect inflation adjustments to the forfeitures specified in section 503(b)(2)(D) of the Act (\$10,000 per violation or per day of a continuing violation and a statutory maximum of \$75,000 for a single act or failure to act). *See Amendment of Section 1.80(b) of the Commission's Rules, Adjustment of Civil Monetary Penalties to Reflect Inflation*, Order, DA 22-1356 (EB Dec. 23, 2022); *see also Annual Adjustment of Civil Monetary Penalties to Reflect Inflation*, 88 Fed. Reg. 783 (Jan. 5, 2023) (setting January 5, 2023, as the effective date for the increases).

<sup>65</sup> 47 U.S.C. § 503(b)(2)(E); *see also* 47 CFR § 1.80(b)(11); *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, 17100-17101, para. 27 (1997) (*Forfeiture Policy Statement*), *recon. denied*, 15 FCC Rcd 303 (1999).

<sup>66</sup> 47 CFR § 1.80(b)(11), Table 3; *Forfeiture Policy Statement*, 12 FCC Rcd at 17098-99, para. 22.

forfeiture upward for violations that are egregious, intentional, or repeated, or that cause substantial harm or generate substantial economic gain for the violator.<sup>67</sup>

25. Section 1.80(b) of the Commission's rules sets a base forfeiture of \$7,000 for marketing of unauthorized equipment for each violation or each day of a continuing violation.<sup>68</sup> Sound Around has been marketing 33 apparently noncompliant radio frequency models during the statute of limitations period based on information provided by the Company during the investigation. Accordingly, a base forfeiture for each of the 33 apparent violations would result in a total proposed base forfeiture of \$231,000 (33 x \$7,000).

26. In addition, given the totality of the circumstances, and consistent with the *Forfeiture Policy Statement*, we propose a significant upward adjustment for Sound Around's: (i) intentional marketing of apparently noncompliant radio frequency devices; (ii) history of prior violations of the Act and the Commission's rules; (iii) repeated and continuous noncompliant marketing; and (iv) ability to internalize the costs of more modest proposed forfeitures (i.e., ability to pay).<sup>69</sup>

27. *First*, Sound Around intentionally marketed apparently noncompliant radio frequency devices justifying a significant upward adjustment. The Company has marketed numerous noncompliant devices for years despite numerous warnings from the Commission and Bureau. The record reflects that Sound Around acknowledges having marketed noncompliant wireless devices for more than 14 years<sup>70</sup> and continued to do so despite the issuance of the *Marketing Citation* and the subsequent investigation that led to the *Sound Around 2020 NAL* and the *Sound Around 2022 Forfeiture Order*.<sup>71</sup> The Company continued to market apparently noncompliant devices after the *Sound Around 2020 NAL* and the *Sound Around 2022 Forfeiture Order*.<sup>72</sup> Therefore, the Company's further marketing of 33 apparently

---

<sup>67</sup> 47 CFR § 1.80(b)(11), Table 3; *see Forfeiture Policy Statement*, 12 FCC Rcd at 17098-99, para. 22 (noting that “[a]lthough we have adopted the base forfeiture amounts as guidelines to provide a measure of predictability to the forfeiture process, we retain our discretion to depart from the guidelines and issue forfeitures on a case-by-case basis, under our general forfeiture authority contained in Section 503 of the Act”).

<sup>68</sup> 47 CFR § 1.80(b)(11), Table 1; *see Behringer USA, Inc.*, Notice of Apparent Liability for Forfeiture and Order, 21 FCC Rcd 1820, 1826, para. 19 (2006) (forfeiture paid); *C.T.S. Technology Co., Limited*, Notice of Apparent Liability for Forfeiture and Order, 29 FCC Rcd 8107, 8112, para. 14 (2014), Forfeiture Order, 31 FCC Rcd 6126 (2016).

<sup>69</sup> *See Forfeiture Policy Statement*, 12 FCC Rcd at 17100–17101, para. 27; 47 CFR § 1.80(b)(11), Table 3 (upward adjustment criteria includes the following: egregious misconduct; ability to pay/relative disincentive; intentional violation; substantial harm; prior violations; substantial economic gain; and repeated or continuous violation).

<sup>70</sup> *See, e.g., Marketing Citation, supra* note 21, at 9475, para. 4, nn.6-9 (in its LOI response, Sound Around admitted to importing and marketing four models of wireless microphones that operate on restricted frequency bands and are therefore noncompliant); *id.* at 9474, para. 3, n.4 (documenting evidence from the Company's website of noncompliant wireless microphones being marketed between 2009 and 2011); *Sound Around 2020 NAL, supra* note 1, at 3481-82, paras. 10-11, nn.30-31, 33-35 (in its 2019 LOI Response, Sound Around provided documentation showing marketing of 32 models of wireless microphones that were either operating on unauthorized frequencies or were not certified, as evidenced by lack of an FCC identification number); *Sound Around 2022 Forfeiture Order, supra* note 1, at 9914, para. 17 (documenting the Company's LOI responses with evidence of marketing noncompliant wireless microphones); Further LOI Response, *supra* note 37, Updated Spreadsheet (Sound Around provided a spreadsheet containing, among other information, the dates on which it began marketing radio frequency devices and dates on which the devices were authorized, which showed marketing of several devices prior to authorization).

<sup>71</sup> *See supra* paras. 9-11.

<sup>72</sup> *See Appendix* (documenting admitted marketing of noncompliant devices in 2022, after the *Sound Around 2020 NAL* and the *Sound Around 2022 Forfeiture Order*); *see also* Further LOI Response, *supra* note 37, Updated Spreadsheet (Sound Around provided a spreadsheet containing, among other information, the dates on which it began marketing radio frequency devices and dates on which the devices were authorized, which showed marketing of several devices prior to authorization and after the *Sound Around 2020 NAL*).

noncompliant models demonstrates: (i) a complete disregard for the Commission's regulatory authority and (ii) that its failure to comply with section 302 of the Act and section 2.803 of the Commission's rules was intentional.<sup>73</sup> These reasons support an upward adjustment of 100 percent of the base amount of \$7,000 for each of the 33 violations.<sup>74</sup>

28. *Second*, we propose an upward adjustment based on the Company's prior conduct. Sound Around has a history of violating the same provisions of the Act and the Commission's rules, section 302 of the Act and section 2.803 of the Commission's rules, that we are proposing to fine the Company for here. Initially, in 2011, the Division issued the *Marketing Citation* against Sound Around notifying the Company of its violations of the equipment marketing requirements.<sup>75</sup> Subsequently, a multi-year investigation showed that Sound Around marketed 32 models of wireless microphones without proper authorization.<sup>76</sup> Moreover, the current investigation is itself a direct outgrowth of Sound Around's earlier conduct.<sup>77</sup> For this reason, an upward adjustment of 100% of the base amount of \$7,000 for each of the 33 violations also appears to be warranted based on these prior violations.<sup>78</sup>

---

<sup>73</sup> We rely on the facts from the first investigation to support this upward adjustment assessment. *See Patrick Keane a/k/a the St. Map Co.*, Notice of Apparent Liability for Forfeiture, 27 FCC Rcd 13757, 13764, n.26 (2012) (the Commission may consider the facts that underlie prior NALs in determining the appropriate forfeiture amount, including where a target has been told their conduct violates the law but continues the violative conduct), Forfeiture Order, 28 FCC Rcd 6688 (2013), Order on Reconsideration, 29 FCC Rcd 8075 (EB 2014). Section 504(c) of the Act prohibits the Commission from using the issuance of a Notice of Apparent Liability for Forfeiture against a party in one proceeding to the prejudice of that party in another proceeding, until either the party pays the forfeiture or a court issues a final order that it do so. 47 U.S.C. § 504(c). However, this prohibition does not restrict the Commission from considering the *facts* that underlie prior NALs. *Patrick Keane*, 27 FCC Rcd at 13764, n.26 (citing *Forfeiture Policy Statement*, 12 FCC Rcd at 17102-17104, paras. 33-36); *see also St. George Cable, Inc.*, Notice of Apparent Liability for Forfeiture and Order, 27 FCC Rcd 11447, 11458, n.45 (2012), Consent Decree, 31 FCC Rcd 3663 (EB 2016). Thus, consideration in the current item of Sound Around's past conduct that led to our earlier enforcement actions is fully consistent with section 504(c) of the Act. *See Commission's Forfeiture Policy Statement and Amendment of Section 1.80 of the Rules to Incorporate the Forfeiture Guidelines*, Memorandum Opinion and Order, 15 FCC Rcd 303, 304-305, paras. 3-5 (1999).

<sup>74</sup> *Presidential Who's Who DBA Presidential Who's Who, Inc.*, Notice of Apparent Liability for Forfeiture, 26 FCC Rcd 8989, 8994, paras. 12-13 (2011) (proposing a 103 percent upward adjustment where the company continued violative conduct "deliberately, given its disregard for the Commission's previous warnings" after the company received a citation and notices of apparent liability), Forfeiture Order, 29 FCC Rcd 3451 (2014); *Rocky Mountain Radar*, Notice of Apparent Liability for Forfeiture, 22 FCC Rcd 1334, 1339, para. 14 (EB 2007) (proposing an upward adjustment where the company intentionally continued marketing noncompliant devices following a citation and failed challenge of the citation at the Commission and the U.S. Court of Appeals for the Tenth Circuit), Forfeiture Order, 22 FCC Rcd 15174 (EB 2007); *Ramko Distributors Inc.*, Notice of Apparent Liability for Forfeiture, 22 FCC Rcd 7161, 7169, para. 23 (2007) (proposing an upward adjustment where company intentionally continued marketing noncompliant devices following a citation); *Pilot Travel Centers, LLC*, Notice of Apparent Liability for Forfeiture, 19 FCC Rcd 23113, 23117, para. 17 (2004) (proposing an upward adjustment where company intentionally continued marketing noncompliant devices following nine citations and devices had the potential to interfere with authorized devices), Order and Consent Decree, 21 FCC Rcd 5308 (2006).

<sup>75</sup> *See supra* para. 9.

<sup>76</sup> *Sound Around 2022 Forfeiture Order*, *supra* note 1, at 9911, para. 12.

<sup>77</sup> *See supra* para. 11.

<sup>78</sup> *Cunningham Broadcasting Corporation*, Notice of Apparent Liability for Forfeiture, 2022 WL 4445690, FCC 22-70, para. 17 (2022) (explaining that the Commission's proposed forfeitures were warranted due to, *inter alia*, licensee's "lengthy history of prior offenses for similar violations"); *Patrick Keane a/k/a The Street Map Co.*, Notice of Apparent Liability for Forfeiture, 27 FCC Rcd 13757, 13762, para. 13 (2012) (providing a proposed maximum penalty for target's "egregious," "intentional," and "repeated," violations, as well as "history of prior offenses"); *Union Broadcasting, Inc.*, Forfeiture Order, 19 FCC Rcd 18588, 18590, para. 10 (EB 2004) (explaining that prior rule violations warranted an upward adjustment).

29. *Third*, an upward adjustment to the proposed forfeiture is also appropriate given Sound Around's repeated and continuous marketing of noncompliant devices, since at least 2009—a pattern of behavior spanning over 14 years. The Company previously advertised and sold noncompliant wireless microphones as far back as 2009 based on its own admissions.<sup>79</sup> Further, as reflected in facts underlying the *Sound Around 2020 NAL* issued on April 3, 2020, the Commission found that Sound Around advertised and sold 32 models of noncompliant wireless microphones in 2019-2020, including two models that were operating within the aviation band in apparent violation of section 302 of the Act and sections 2.803 and 74.851 of the Commission's rules.<sup>80</sup> The Company admitted in 2020 to marketing noncompliant microphones in its response to a consumer question submitted on the Amazon.com product page.<sup>81</sup> This repeated and continuous noncompliant marketing also justifies a proposed 100 percent upward adjustment.<sup>82</sup>

30. *Lastly*, an upward adjustment appears to be warranted due to Sound Around's ability to pay. Based on the Company's financial documentation, Sound Around and its affiliated companies reported tens of millions in gross revenues for the years 2021 and 2022.<sup>83</sup> An additional upward adjustment of 100 percent of the base amount of \$7,000 for each of the 33 alleged violations is warranted to deter the Company from treating the proposed fine as merely a cost of doing business.<sup>84</sup>

31. Therefore, after applying the four upward adjustment factors discussed above, we propose to assess an overall forfeiture for the apparent equipment marketing violations in the amount of \$1,155,000 (33 x \$35,000).<sup>85</sup>

---

<sup>79</sup> *Marketing Citation*, *supra* note 21, at 9475, para. 4, nn.6-9 (in its LOI response, Sound Around admitted to importing and marketing four models of wireless microphones that operate on restricted frequency bands and are therefore noncompliant).

<sup>80</sup> *See Sound Around 2020 NAL*, *supra* note 1, at 3484, para. 17. Also, Sound Around provided documentation showing that it marketed 32 models of wireless microphones that were either operating on unauthorized frequencies or were not certified. *See id.* at 3481-82, paras. 10-11, nn.30-31, 33. Moreover, statements provided by Sound Around in its LOI responses in our earlier investigation, as well as evidence obtained by the Commission (screenshots), showed that the Company was marketing noncompliant wireless microphones during the inquiry period. *See Sound Around 2022 Forfeiture Order*, *supra* note 1, at 9914, para. 17.

<sup>81</sup> *Sound Around 2022 Forfeiture Order*, *supra* note 1, at 9924, para. 40.

<sup>82</sup> *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, 5540-41, para. 22 (2018), affirmed, Forfeiture Order, 35 FCC Rcd 7441, 7442, para. 5 (2020) (upward adjustment for repeated and continuous marketing of noncompliant devices for several years). Some apparent violations are not actionable due to the expiration of the statute of limitations period, however, the Commission may consider facts arising before the expiration date in determining an appropriate forfeiture amount for acts that occurred inside of the statute of limitations period. *See Enserch Corp.*, Forfeiture Order, 15 FCC Rcd 13551, 13554, para. 11 (2000).

<sup>83</sup> LOI Response, *supra* note 20, at Attachments, Bates Nos. 000041 to 000051; Bates Nos. 000052 to 000064 (2021 tax returns); Deficiency Letter Response, *supra* note 39, at Attachments, 2022 Financial Statements.

<sup>84</sup> *See, e.g., Viacom, Inc.*, Forfeiture Order, 30 FCC Rcd 797, para. 22 (2015) (noting that an upward adjustment is appropriate in light of Viacom's reported annual revenues and the revenues of ESPN's parent); *SBC Communications Inc.*, Order on Review, 17 FCC Rcd 4043, 4052, para. 20 (2002) (“[A] large and highly profitable company . . . should expect . . . that the forfeiture amount” may “be above, or even well above, the relevant base amount.”); *Acuity Brands, Inc.*, Notice of Apparent Liability for Forfeiture, 32 FCC Rcd 9524, 9527, para. 10 (EB 2017) (imposing an upward adjustment where company's net sales and gross profits were approximately \$3.2 billion and \$1.4 billion, respectively).

<sup>85</sup> The four upward adjustment factors result in a \$28,000 upward adjustment to the \$7,000 base forfeiture, or \$35,000 per apparent violation. The amount of any forfeiture penalty for any continuing violation shall not exceed a total of \$177,951 for any single act or failure to act. 47 U.S.C. § 503(b)(2)(D); 47 CFR § 1.80(b)(10). Equipment

(continued....)

32. For Sound Around's apparent failure to respond fully to the LOI and to the Further LOI, section 1.80(b) of the Commission's rules sets a base forfeiture amount of \$4,000 for each violation or each day of a continuing violation for failure to respond to Commission communications.<sup>86</sup> Sound Around's failure to respond fully to the LOI and Further LOI are also subject to upward adjustments for egregiousness.<sup>87</sup> As the Commission has stated, "[p]rompt and full responses to Bureau inquiry letters are essential to the Commission's enforcement function."<sup>88</sup> Sound Around's failure to provide complete information from the start delayed the Bureau's investigation and caused the Commission to expend significant resources reviewing and comparing numerous incomplete responses to determine discrepancies. A higher proposed forfeiture is thus appropriate given the extent of the Company's apparent violations and is consistent with our precedent.<sup>89</sup> Additionally, as noted above, Sound Around has the ability to pay based on the financial information the Company submitted.<sup>90</sup> As such, we propose an upward adjustment to the statutory maximum for an individual violation of \$23,727 for each of the two apparent violations stemming from Sound Around's failure to respond fully to the LOI and Further LOI, resulting in an overall proposed forfeiture of \$47,454 for the two apparent violations.

33. In applying the applicable statutory factors, we also consider whether there is any basis for a downward adjustment of the proposed forfeiture. Here, we find none.

34. Therefore, after applying the *Forfeiture Policy Statement*, section 1.80 of the Commission's rules, and the statutory factors, we propose a total forfeiture of \$1,202,454 (\$1,155,000 plus \$47,454), for which Sound Around is apparently liable.

#### IV. CONCLUSION

35. We have determined that Sound Around apparently willfully and repeatedly violated section 302 of the Act, section 2.803 of the Commission's rules, and orders of the Commission. As such, Sound Around is apparently liable for a forfeiture of \$1,202,454.<sup>91</sup>

(Continued from previous page) \_\_\_\_\_  
marketing violations are considered continuing violations when noncompliant marketing occurs over multiple days. See e.g., *Sound Around 2020 NAL*, *supra* note 1, at para. 23. Here, the company admits to marketing the noncompliant models for multiple days, as shown in the Appendix where marketing began days or even months prior to the authorization, therefore we have some discretion and can propose to assess a forfeiture for an amount that does not exceed the continuing statutory maximum of \$177,951. See 47 CFR §1.80(b)(8), note; *T-Mobile USA, Inc., A Subsidiary of T-Mobile US, Inc.*, Forfeiture Order, 29 FCC Rcd 10752, 10757-58, para. 14 (2014) ("[T]he agency—on both the Commission and Bureau levels—has repeatedly stated that it retains the discretion to depart from existing guidelines and issue forfeitures on a case-by-case basis, pursuant to its general forfeiture authority contained in Section 503 of the Act").

<sup>86</sup> 47 CFR § 1.80(b)(11), Table 1.

<sup>87</sup> See *Fox Television Stations, Inc.*, Notice of Apparent Liability for Forfeiture, 25 FCC Rcd 7074, 7081, para. 15 (EB 2010) (*Fox*) ("Misconduct of this type exhibits contempt for the Commission's authority and threatens to compromise the Commission's ability to adequately investigate violations of its rules."); see also *Quadrant Holdings, LLC*, Notice of Apparent Liability for Forfeiture, DA 22-825, 2022 WL 3339390, \*5, paras. 16-17 (EB Aug. 5, 2022) (proposing a \$100,000 forfeiture because "[t]he egregiousness and intentional nature of [the] misconduct, as well as [the company's] ability to pay, considered in conjunction with the deterrent effect of the proposed forfeiture, dictate that [the company] be held liable for an amount significantly higher than the base forfeiture set for the relevant misconduct.").

<sup>88</sup> *Id.*

<sup>89</sup> See, e.g., *Neon Phone Service, Inc.*, Notice of Apparent Liability for Forfeiture, 32 FCC Rcd 7964, 7974-75, para. 24 (2017) (proposing an upward adjustment from \$4,000 to \$25,000 for egregiousness and intent); *Fox*, 25 FCC Rcd at 7081, paras. 15-16 (adjusting the proposed forfeiture from \$4,000 to \$25,000 for egregiousness).

<sup>90</sup> See *supra* para. 30.

## V. ORDERING CLAUSES

36. Accordingly, **IT IS ORDERED** that, pursuant to section 503(b) of the Act, 47 U.S.C. § 503(b), and section 1.80 of the Commission's rules, 47 CFR § 1.80, Sound Around, Inc. is hereby **NOTIFIED** of this **APPARENT LIABILITY FOR A FORFEITURE** in the amount of one million two hundred and two thousand four hundred and fifty-four dollars (\$1,202,454) for willful and repeated violations of section 302(b) of the Act, 47 U.S.C. § 302a(b), and section 2.803(b) of the Commission's rules, 47 CFR § 2.803(b), and Commission orders.

37. **IT IS FURTHER ORDERED** that, pursuant to section 1.80 of the Commission's rules, 47 CFR § 1.80, within thirty (30) calendar days of the release date of this Notice of Apparent Liability for Forfeiture, Sound Around, Inc. **SHALL PAY** the full amount of the proposed forfeiture or **SHALL FILE** a written statement seeking reduction or cancellation of the proposed forfeiture consistent with paragraph 40 below.

38. In order for Sound Around, Inc. to pay the proposed forfeiture, the Company shall notify <mailto:EB-SED-Response@fcc.gov> of its intent to pay, whereupon an invoice will be posted in the Commission's Registration System (CORES) at <https://apps.fcc.gov/cores/userLogin.do>. Upon payment, Sound Around, Inc. shall send electronic notification of payment to Spectrum Enforcement Division, Enforcement Bureau, Federal Communications Commission, at [EB-SED-Response@fcc.gov](mailto:EB-SED-Response@fcc.gov) on the date said payment is made. Payment of the forfeiture must be made by credit card using CORES at <https://apps.fcc.gov/cores/userLogin.do>, ACH (Automated Clearing House) debit from a bank account, or by wire transfer from a bank account. The Commission no longer accepts forfeiture payments by check or money order. Below are instructions that payors should follow based on the form of payment selected:<sup>92</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<sup>93</sup> or printed CORES form<sup>94</sup> 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).<sup>95</sup> 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

---

<sup>91</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.

<sup>92</sup> For questions regarding payment procedures, please contact the Financial Operations Group Help Desk by phone at 1-877-480-3201 (option #1).

<sup>93</sup> FCC Form 159 is accessible at <https://www.fcc.gov/licensing-databases/fees/fcc-remittance-advice-form-159>.

<sup>94</sup> Information completed using the Commission's Registration System (CORES) does not require the submission of an FCC Form 159. CORES is accessible at <https://apps.fcc.gov/cores/userLogin.do>.

<sup>95</sup> Instructions for completing the form may be obtained at <http://www.fcc.gov/Forms/Form159/159.pdf>.

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, 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.

39. Any request for making full payment over time under an installment plan should be sent to: Chief Financial Officer—Financial Operations, Federal Communications Commission, 45 L Street, NE, Washington, D.C. 20554.<sup>96</sup> Questions regarding payment procedures should be directed to the Financial Operations Group Help Desk by phone, 1-877-480-3201, or by e-mail, [ARINQUIRIES@fcc.gov](mailto:ARINQUIRIES@fcc.gov).

40. The written statement seeking reduction or cancellation of the proposed forfeiture, if any, must include a detailed factual statement supported by appropriate documentation and affidavits pursuant to sections 1.16 and 1.80(g)(3) of the Commission’s rules.<sup>97</sup> The written statement must be mailed to the Office of the Secretary, Federal Communications Commission, 45 L Street, NE, Washington, D.C. 20554, ATTN: Enforcement Bureau – Spectrum Enforcement Division, and must include the NAL/Account Number referenced in the caption. The statement must also be e-mailed to [EB-SED-Response@fcc.gov](mailto:EB-SED-Response@fcc.gov).

41. The Commission will not consider reducing or canceling a forfeiture in response to a claim of inability to pay unless the petitioner submits the following documentation: (1) federal tax returns for the past three years; (2) financial statements for the past three years prepared according to generally accepted accounting practices; or (3) some other reliable and objective documentation that accurately reflects the petitioner’s current financial status.<sup>98</sup> Any claim of inability to pay must specifically identify the basis for the claim by reference to the financial documentation. Inability to pay, however, is only one of several factors that the Commission will consider in determining the appropriate forfeiture, and we retain the discretion to decline reducing or canceling the forfeiture if other prongs of 47 U.S.C. § 503(b)(2)(E) support that result.<sup>99</sup>

---

<sup>96</sup> See 47 CFR § 1.1914.

<sup>97</sup> *Id.* §§ 1.16, 1.80(g)(3).

<sup>98</sup> 47 U.S.C. § 503(b)(2)(E).

<sup>99</sup> See, e.g., *Ocean Adrian Hinson, Surry County, North Carolina*, Forfeiture Order, 34 FCC Rcd 7619, 7621, para. 9 & n.21 (2019); *Veal Pennington and Michael Williamson*, Forfeiture Order, 34 FCC Rcd 770, paras. 18–21 (2019); *Fabrice Polynice, Harold Sido and Veronise Sido, North Miami, Florida*, Forfeiture Order, 33 FCC Rcd 6852, 6860–62, paras. 21–25 (2018); *Adrian Abramovich, Marketing Strategy Leaders, Inc., and Marketing Leaders, Inc.*, Forfeiture Order, 33 FCC Rcd 4663, 4678–79, paras. 44–45 (2018); *Purple Communications, Inc.*, Forfeiture Order, 30 FCC Rcd 14892, 14903–904, paras. 32–33 (2015); *TV Max, Inc., et al.*, Forfeiture Order, 29 FCC Rcd 8648, 8661, para. 25 (2014).

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

FEDERAL COMMUNICATIONS COMMISSION

Marlene H. Dortch  
Secretary



## APPENDIX

	Model number	Other product identifier (e.g., UPC, SKU, or ASIN )	FCC ID or SDOC information provided by Sound Around	Date of Auth.	Mkting Began (earliest known date) per Sound Around	Why Auth. Needed
1	PDWR62BTBK	B01954Q4I8	2A5J3-HYB1065B5	4/6/2022	10/31/2021	Bluetooth required certification
2	PFA540BT	B01M9I1DO1	2A5PBPYLE	4/11/2022	3/10/2022	Bluetooth required certification
3	PMP20 <sup>100</sup>	B00BQOFXAG	2A5ST-PMP52BT	4/10/2022	11/1/2021	Bluetooth required certification
	PMP42BT	B00NCPG5RW			8/1/2022 [date provided by Company appears inaccurate]	
	PMP52BT	B00NCPG5V8			Amazon Date First Available September 5, 2014 9/22/2022 [date provided by Company appears inaccurate] Amazon Date First Available September 5, 2014	
4	SLNKMSG131	B09J15HXNM	2A5SZ-P6B19	12/1/2022	1/1/2022	Wireless remote required certification
5	PPHP28AMX	B07BKT59W3	2A5UW-PPHP28AMX	4/14/2022	7/7/2021	Bluetooth required certification
6	PWRC55BT	B07G7Q6WXW	2A5X5-PDWR54BTB	4/20/2022	7/7/2021	Bluetooth required certification
7	PLMR91UB	B01178KZ94	2A5X5-PLMR91UB	8/5/2022	7/27/2022	Bluetooth required certification
8	PLUTV46BTA	B07XQLB9B5	2A5X5-PLMRBT18	4/19/2022	10/21/2022 [date provided by Company appears inaccurate] Amazon Date First Available September 10,	Bluetooth required certification

<sup>100</sup> A proper FCC authorization can cover multiple models as long as the models are electronically identical. See 47 CFR §§ 2.906(b), 2.907(b), 2.908. Here, a single violation is assessed for multiple models covered by an FCC authorization.

	Model number	Other product identifier (e.g., UPC, SKU, or ASIN )	FCC ID or SDOC information provided by Sound Around	Date of Auth.	Mkting Began (earliest known date) per Sound Around	Why Auth. Needed
	PLUTV48KBTR	B08FKRFDM1			2019 10/21/2022 [date provided by Company appears inaccurate] Amazon Date First Available August 10, 2020	
9	PLCDBT65MRW	B01M7PFU2O	2A5X5-PLRVSD300	8/4/2022	4/15/2022	Bluetooth required certification
	PLCDBT75MRB	B01M9ANUVA			4/15/2022	
	PLCDBT85MRW	B01M2WZ31X			4/15/2022	
	PLCDBT95MRB	B01MA3F8EP			4/15/2022	
	PLMR14BW	B01MQCHPDT			4/15/2022	
	PLMRKT33WT	B002J9GHKC			4/15/2022	
	PLMRM4BTA	B01M0SB367			6/15/2022	
PLRVST300	[none provided]	7/7/2021				
10	FU-Y28D-ZWUE	B09HV839J8	2A5Z2-SLFTRD18	4/8/2022	9/23/2022 [date provided by Company appears inaccurate] Amazon Date First Available October 6, 2021	Bluetooth required certification
	A1-OSCL-P6GF / SLFTRD26BT	B089QRZMNW			1/20/2022 [date provided by Company appears inaccurate] Amazon Date First Available June 5, 2020	
11	PRT202.75	B08JQS3TS6	2A6FC-PRT20275	4/17/2023	10/15/2022	Wireless microphone required certification
	PRT239.1WC	B08644MYKD			9/26/2022	
12	PMX3500PH	B08JMD4QMG	2A6FC-PT272AUBT	4/21/2022	10/15/2021	Bluetooth required certification
13	PCA3	B001P2R1RW	2A6FX-PCA3	4/28/2023	10/15/2021	Bluetooth required certification
14	PMDJAND10	B0BDFWVH1R	2ALVW-W-8303D	3/30/2023	7/20/2022	Wireless microphone required certification
	PMDJAND12	B0BDFS1VLH			9/27/2022	
	PMDJAND15	B0BDDQHT2G			8/25/2022	
	PPHP1251BW	B0B1JNK98G			10/20/2022	
	PPHP1274B	B09HSGYNKF			10/10/2022	

	Model number	Other product identifier (e.g., UPC, SKU, or ASIN )	FCC ID or SDOC information provided by Sound Around	Date of Auth.	Mkting Began (earliest known date) per Sound Around	Why Auth. Needed
	PPHP2645B	B09HV4Z6B8			9/16/2022	
	PPHP265B	B09HV4TKBV			8/25/2022	
	PPHP2694B	B0BBJQLH14			10/10/2022	
	PPHP2814B	B0B1KV3LHY			10/22/2022	
	PPHP2818B	B0B1JN6MK5			10/23/2022	
	PPHP2845B	B09HSFM7Z5			8/25/2022	
	PPHP2894B	B0BBHDP415			6/3/2022	
	PPHP818B	B09MDM2MFM			10/10/2022	
	PPHP81LTB	B0B1JR3QCN			10/24/2022	
	PPHP874B	B09HSDJSPF			8/25/2022	
	PPHP87TLB	B0B1KL3NFT			10/10/2022	
	PWMA1099A	B0B4PQ2WMY			10/10/2022	
	PWMA899A	B0B4PQ55CK			9/16/2022	
15	PHPD212A	B0B4XYVPQP	2AQ8H-PPHP652B	3/22/2022	10/15/2021	Bluetooth required certification
16	PPHP1042B	B08PL4PSZF	2AQ8H-PPHP844B	3/23/2022	10/15/2021	Bluetooth required certification
17	PPHP1299WU.5	B07QH7VBW7	2AS6U-PPHP1599WU	4/22/2022	10/25/2021	Bluetooth required certification
18	PCM20A	B002UL5WM8	2ASQD-PDA20BT	4/18/2022	10/15/2021	Bluetooth required certification
19	PDWM2115	B00K3SNRP4	2ASQDPDWM2135	9/21/2022	7/29/2022	Wireless microphone required certification  These wireless microphones were at issue in the NAL
	PDWM2135	B00TOKTBL6			10/15/2021	
	PDWM2140	B00TJ2FE2E			8/18/2022	
	PDWM2145	B00TJ2FKZK			10/15/2022 [date provided by Company appears inaccurate based on responses received in earlier case that led to the NAL].	
20	PMX466	B08BWRW5SL	2ASQDPMXU88BT	4/5/2022	10/10/2023 [date provided by Company appears inaccurate]  Amazon Date First Available: June 26, 2020	Bluetooth required certification
21	PLRD146	B07KGFMD33	2BAIZPLHRDVD101KT	3/16/2023	8/29/2022	Wireless FM Transmitter
	PLDHR926KT	B07CDJNX89			6/25/2022	

	Model number	Other product identifier (e.g., UPC, SKU, or ASIN )	FCC ID or SDOC information provided by Sound Around	Date of Auth.	Mkting Began (earliest known date) per Sound Around	Why Auth. Needed
	PLHRDVD101KT	B07CD9Q967			11/4/2022	required certification
	PLHRDVD103	B07BSLRGXS			11/3/2022	
	PLHRDVD108KT	B07KGFGGTY			11/3/2022	
	PLHRDVD904	[none provided]			12/15/2022	
	PLRV1525	[none provided]			12/15/2022	
	PLRV1725	B07D21XZPS			6/25/2022	
22	PLHRDVD90KT	B07BSMLVG1	2BAIZPLHRDVD101KT	03/16/2023	8/2/2022	FM Transmitter required certification
23	PSBT105A	B07XZJJ2J1	2AQAW-PSBT65A	8/2/2018 for wireless Microphone functions (2AQAW-PSBT65A)	7/19/2022	Bluetooth operations of speakers required certification (earlier authorization only covered wireless microphone operations)
	PSBT125A	B07XZJ8KNN			7/19/2022	
	PSBT62A	B08BTYTX1M			8/25/2022	
	PSBT62A.5	B08VJLLNFT	2A5X5-PSBT125A	05/16/2023 for Bluetooth operation (2A5X5-PSBT125A)	8/25/2022	
	PSBT65A	B0783S9CJ4			8/19/2022	
	PSBT65A.5	B07HNC29KW			11/15/2022	
	PSBT85A	B07XZFNZ5D			10/15/2021	
24	PT260A	[none provided]	2A5X5-PT260A	12/19/2022	06/25/2022	Bluetooth required certification
25	PKBRD37WT	[none provided]	SDOC	4/2/2023	2/1/2023	Unintentional radiator required certification or SDOC
	PKBRD4112	[none provided]			2/1/2023	
	PKBRD4113	B09F5142L3			4/15/2022	
	PKBRD4911PK	[none provided]			2/1/2023	
	PKBRD4912PK	[none provided]			2/1/2023	
	PKBRD6111	B07P2DW2KW			4/15/2022	
	PKBRD6112	B09F4WVG9K			4/15/2022	
26	PEGKT30	BOBKLP CYW6	SDOC	4/24/2023	8/10/2022	Unintentional radiator required certification or SDOC
	PUKTEAK74	[none provided]			3/15/2023	
27	PTEDK86	B0BDG7M9KS	SDOC	4/12/2023	2/10/2023	Unintentional radiator required certification or SDOC

	Model number	Other product identifier (e.g., UPC, SKU, or ASIN )	FCC ID or SDOC information provided by Sound Around	Date of Auth.	Mkting Began (earliest known date) per Sound Around	Why Auth. Needed
28	PGTAMPL100	B09YZ1Z6HY	SDOC	5/22/2023	12/1/2022	Unintentional radiator required certification or SDOC
29	PDIGPRDP22	B0BGSXHY3C	SDOC	2/28/2023	10/25/2022	Unintentional radiator required certification or SDOC
30	PHQBS52	B0B4PST6D5	SDOC	4/17/2023	8/20/2022	Unintentional radiator required certification or SDOC
	PSUB8A	B09P49JHB9			7/1/2022	
31	PDWMKHRD23	B084HGG55S	2AMZ9-PDWMKHRD23	11/27/2019 for wireless Microphone functions. Bluetooth operations need a certification as well.	9/27/2022	FCC ID provided by Sound Around does not cover Bluetooth operations of speakers (it covers wireless microphone)
32	PLMRMB4CB	B072BMP3YG	none	none	2/15/2022	Product is listed on Sound Around's Amazon page.  Bluetooth operations but no FCC ID.
33	PHCD55.5	B0BL1WM654	2A5UW-PKRK270BT	4/8/2022	6/15/2023	Product is listed on Sound Around's Amazon page.  FCC ID provided does not match the Sound Around device.