

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

In the Matter of	)	
	)	
FCCFrequency	)	File No.: EB-FIELDWR-13-00010921
d/b/a Fundacion Cristiana De Comunicaciones;	)	Citation No.: C201332900001
www.fccfrequency.com	)	
	)	
Panorama City, CA	)	

**CITATION AND ORDER**

**Illegal Marketing of Unauthorized Radio Frequency Devices**

**Adopted: September 24, 2013**

**Released: September 25, 2013**

By the District Director, Los Angeles Office, Western Region, Enforcement Bureau:

**I. INTRODUCTION**

1. This is an official **CITATION AND ORDER** (Citation) issued pursuant to Section 503(b)(5) of the Communications Act of 1934, as amended (Communications Act or Act),<sup>1</sup> to FCCFrequency d/b/a Fundacion Cristiana De Comunicaciones and www.fccfrequency.com (FCCFrequency). Specifically, FCCFrequency is being cited for the marketing of unauthorized radio frequency devices in violation of Section 302(b) of the Act,<sup>2</sup> and Sections 2.803 and 73.1660(a) of the Commission’s rules (Rules).<sup>3</sup>

2. Notice of Duty to Comply With Laws: FCCFrequency should take immediate steps to come into compliance, discontinue the marketing of unauthorized radio frequency devices, and avoid any recurrence of the misconduct described herein. FCCFrequency is hereby on notice that if it subsequently engages in any conduct of the type described in this Citation, including any violation of Section 302(b) of the Act or Sections 2.803 or 73.1660(a) of the Rules, it may be subject to civil and criminal penalties, including but not limited to substantial monetary fines (forfeitures) and seizure of equipment. Such forfeitures may be based on both the conduct that led to this Citation and the conduct following it.<sup>4</sup>

3. Your Response Required: Pursuant to Sections 4(i), 4(j), and 403 of the Communications Act,<sup>5</sup> we also direct FCCFrequency to respond in writing, within thirty (30) calendar days after the release

<sup>1</sup> 47 U.S.C. § 503(b)(5).

<sup>2</sup> 47 U.S.C. § 302a(b).

<sup>3</sup> 47 C.F.R. §§ 2.803, 73.1660(a).

<sup>4</sup> See 47 U.S.C § 503(b)(5). See also S. Rep. No. 95-580, 95th Cong., 1st Sess. at 9 (1977) (If a person or entity that has been issued a citation by the Commission thereafter engages in the conduct for which the citation of violation was sent, the subsequent notice of apparent liability “would attach not only for the conduct occurring subsequently but also for the conduct for which the citation was originally sent”) (emphasis added).

<sup>5</sup> 47 U.S.C. §§ 154(i), 154(j), 403.

date of this Citation, and signed under penalty of perjury, with descriptions of the specific action(s) taken or plans to cease the marketing of unauthorized radio devices and preclude recurrence of the violations, and also a timeline for completion of any correction action(s).

## II. BACKGROUND

4. The Enforcement Bureau's Los Angeles Office (Los Angeles Office) received reports that FCCFrequency offered for sale non-certified low power FM radio transmitters for use in low power FM (LPFM) radio stations. Such transmitters were also being installed by FCCFrequency for use by individuals and entities that had no FCC authorization to operate the devices. During the investigation of an unlicensed broadcast radio station located in Arleta, California, the operator of this unauthorized station (Arleta Station) informed the Los Angeles Offices that the low power radio transmitter in use was purchased from FCCFrequency.<sup>6</sup> The operator of the Arleta Station gave the Los Angeles Office the contract, dated March 22, 2013, that the Arleta Station had entered into with FCCFrequency to purchase and install a 100 watt FM radio transmitter at the unauthorized station. The contract showed that the unlicensed operator was charged \$6,023.75 for the service, including the purchase of the FM transmitter and other equipment. The transmitter is identified as a Brand Name: AAREFF; Model: 100WPLLS19P, manufactured in the Dominican Republic. According to Commission records, this device has not received an FCC grant of certification, which is required for LPFM broadcast transmitters.<sup>7</sup>

5. According to its website, FCCFrequency specializes in LPFM equipment sales and installation,<sup>8</sup> and encourages nonprofit organizations to "install your own Low Power FM Radio Station."<sup>9</sup> The website also advertises that it will assist applicants in the filing of new and major changes for LPFM stations in the upcoming filing window.<sup>10</sup>

## III. APPLICABLE LAW AND VIOLATIONS

6. Federal law requires that radio frequency devices must be certified in accordance with the Commission's technical standards before they can be marketed in the United States.<sup>11</sup> 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>12</sup>

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<sup>6</sup> See *Belarmino and Sonia Lara*, Notice of Unlicensed Operation (Aug. 6, 2013) (on file in EB-FIELDWR-13-00010320); see also *Angel Gutierrez*, Notice of Unlicensed Operation (Aug. 22, 2013) (on file in EB-FIELDWR-13-00010515).

<sup>7</sup> 47 C.F.R. § 73.1660(a)(2).

<sup>8</sup> See FCCFrequency Website: <http://www.fccfrequency.com/> (Last visited Sep. 11, 2013).

<sup>9</sup> See FCCFrequency Website: <http://store.fccfrequency.com/> (Last visited Sep. 11, 2013). FCCFrequency appears to target religious groups in its marketing stating that it can "train you in professional Christian broadcasting" and that "[i]t is a real pleasure for us to present our service on [sic] all ministers who want to have their own low power radio antenna to preach and expand the kingdom of God Through the communication!" See *supra*, note 8.

<sup>10</sup> See *supra*, note 8. See also *Media Bureau Announces Availability of the Revised FCC Form 318 and the Filing Procedures for October 15 – October 29, 2013 Low Power FM Filing Window*, Public Notice, 28 FCC Rcd 8854 (Med. Bur. 2013).

<sup>11</sup> See, e.g., *Revision of Part 2 of the Commission's Rules Relating to the Marketing and Authorization of Radio Frequency Devices*, Report and Order, 12 FCC Rcd 4533 (1997).

<sup>12</sup> 47 U.S.C. § 302a(b).

7. The applicable implementing regulations for Section 302(b) are set forth in the Section 2.803.<sup>13</sup> Specifically, Section 2.803 of the Rules provides, in relevant part, that:

(a) Marketing, as used in this section, includes 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.

(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; or (2) For devices subject to authorization under verification or Declaration of Conformity in accordance with the rules in subpart J of this chapter, the device complies with all applicable technical, labeling, identification and administrative requirements; . . .<sup>14</sup>

Section 73.1660(a) of the Rules states that an “AM, FM, or TV transmitter shall be verified for compliance with the requirements of this part following the procedures described in part 2 of this chapter”<sup>15</sup> and that an “LPFM transmitter shall be certified for compliance with the requirements of this part following the procedures described in part 2 of this chapter.”<sup>16</sup> In other words, LPFM transmitters must have FCC certification to be marketed for sale in the United States.

8. The record in this case shows that, on March 22, 2013, FCCFrequency marketed unauthorized LPFM radio transmitters. Based on the foregoing evidence, we find that FCCFrequency violated Section 302(b) of the Communications Act and Sections 2.803 and 73.1660(a) of the Rules by marketing and offering for sale unauthorized radio frequency devices.<sup>17</sup>

#### IV. REQUEST FOR INFORMATION

9. Pursuant to Sections 4(i), 4(j), and 403 of the Communications Act,<sup>18</sup> FCCFrequency is directed to confirm in writing that it has ceased selling unauthorized radio frequency devices in the United States and provide the information requested below within thirty (30) calendar days after the release date of this Citation. A failure to respond in writing, or the provision of an inadequate, incomplete, or misleading response, may subject FCCFrequency to additional sanctions.

- i. Provide a list of all radio frequency (RF) devices marketed or available for sale by FCCFrequency as of September 11, 2013. For each device, list the manufacturer name, make and model number. For each model, provide a copy of any equipment certification, authorization, verification or declaration of conformity issued by the FCC or a relevant party concerning that model. Explain how each model complies with Section 302(b) of the Act and Section 2.803 of the Rules. Provide the name and address of the manufacturer, importer, and supplier of each piece of RF equipment listed.

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<sup>13</sup> 47 C.F.R. § 2.803.

<sup>14</sup> 47 C.F.R. § 2.803(a)–(b).

<sup>15</sup> 47 C.F.R. § 73.1660(a)(1).

<sup>16</sup> 47 C.F.R. § 73.1660(a)(2).

<sup>17</sup> 47 U.S.C. § 302a(b); 47 C.F.R. §§ 2.803, 73.1660(a).

<sup>18</sup> 47 U.S.C. §§ 154(i), 154(j), 403.

- ii. Provide a list of all individuals and entities in the United States that have purchased RF equipment from FCCFrequency beginning January 1, 2012. Provide contact names and addresses.
- iii. Provide copies of all contracts entered into between any individual or entity in the United States and FCCFrequency to sell, provide and/or install RF equipment beginning January 1, 2012. Indicate which contracts had been fulfilled, when, where, and with what model transmitter.
- iv. Provide copies of all marketing materials for RF equipment produced by FCCFrequency beginning January 1, 2102.
- v. Provide copies of all training materials, including scripts, for FCCFrequency staff and installers.
- vi. FCCFrequency customers have indicated to the Los Angeles Office that FCCFrequency personnel assured them that an FCC license was not necessary to operate the equipment purchased from FCCFrequency. Provide the information that FCCFrequency gives to its customers, or potential customers, concerning the need for an FCC license. Be as specific as possible. To the extent these statements are made orally, reduce them to writing.
- vii. Provide the time frame of the operation of FCCFrequency. Specifically, how long has FCCFrequency been marketing and selling RF equipment?

## V. RESPONDING TO THIS CITATION

10. In addition to the required written information described in paragraphs 3 and 9, above, FCCFrequency may, if it so chooses, respond to this Citation—challenging the factual and legal findings herein—within thirty (30) calendar days from the release date of this Citation either through (1) a written statement, (2) a teleconference interview, or (3) a personal interview at the Commission Field Office nearest to your place of business.

11. If you would like to arrange a teleconference or personal interview, please contact Charles A. Cooper at (562) 860-7474. The nearest Commission Field Office is located in Cerritos, California. Such teleconference or interview must take place within thirty (30) calendar days of the date of this Citation. If you would like to submit a written response, including any supporting documentation, you must send the response within thirty (30) calendar days of the date of this Citation to the contact and address provided in paragraph 12, below.

12. All written communications, including the information requested in paragraphs 3 and 9, above, should be provided to the address below.

Federal Communications Commission  
Los Angeles District Office  
18000 Studebaker Road, Suite 660  
Cerritos, California 90703  
**Re: EB-FIELDWR-13-00010921**

13. Reasonable accommodations for people with disabilities are available upon request. Include a description of the accommodation you will need, and include as much detail as you can. Also include a way we can contact you if we need more information. Please allow at least five (5) business days advance notice; last minute requests will be accepted, but may be impossible to fill. Send an e-mail to [fcc504@fcc.gov](mailto:fcc504@fcc.gov) or call the FCC's Consumer & Governmental Affairs Bureau:

For sign language interpreters, CART, and other reasonable accommodations:  
202-418-0530 (voice), 202-418-0432 (tty);

For accessible format materials (braille, large print, electronic files, and audio format):  
202-418-0531 (voice), 202-418-7365 (tty).

14. Please be advised that it is a violation of Section 1.17 of the Commission's rules (47 C.F.R. § 1.17) for any person or a staff member of that person to make any false or misleading written or oral statement of fact. Specifically, no person shall:

(1) In any written or oral statement of fact, intentionally provide material factual information that is incorrect or intentionally omit material information that is necessary to prevent any material factual statement that is made from being incorrect or misleading; and

(2) In any written statement of fact, provide material factual information that is incorrect or omit material information that is necessary to prevent any material factual statement that is made from being incorrect or misleading without a reasonable basis for believing that any such material factual statement is correct and not misleading.<sup>19</sup>

15. Further, the knowing and willful making of any false statement, or the concealment of any material fact, in reply to this Citation is punishable by fine or imprisonment under 18 U.S.C. § 1001.

16. If you violate Section 1.17 of the Commission's rules or the criminal statute referenced above, you may be subject to further legal action, including monetary fines pursuant to Section 503 of the Communications Act.<sup>20</sup>

17. Under the Privacy Act of 1974, 5 U.S.C. § 552a(e)(3), we are informing you that the Commission's staff will use all relevant material information before it, including information that you disclose in your interview or written statement, to determine what, if any, enforcement action is required to ensure your compliance with the Communications Act and the Commission's rules.

## VI. FUTURE VIOLATIONS

18. If, after receipt of this Citation, FCC Frequency again violates Section 302(b) of the Act or Sections 2.803 or 73.1660 of the Rules by engaging in conduct of the type described herein, the Commission may impose monetary forfeitures not to exceed \$16,000 for each such violation or each day of a continuing violation, and up to \$112,500 for any single act or failure to act.<sup>21</sup> For instance, the Commission could impose separate forfeitures for each day on which an unauthorized RF device is sold or for each day on which a non-certified RF device is advertised or otherwise offered for sale. Further, as discussed above, such forfeitures may be based on both the conduct that led to the Citation and the conduct following it.<sup>22</sup> In addition, violations of the Communications Act or the Rules also can result in

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<sup>19</sup> 47 C.F.R. § 1.17.

<sup>20</sup> 47 U.S.C. § 503.

<sup>21</sup> See 47 U.S.C. §§ 401, 501, 503; 47 C.F.R. § 1.80(b)(7). This amount is subject to further adjustment for inflation (see 47 C.F.R. § 1.80(b)(9)), and the forfeiture amount applicable to any violation will be determined based on the statutory amount designated at the time of the violation.

<sup>22</sup> See *supra* para. 2.

seizure of equipment through *in rem* forfeiture actions,<sup>23</sup> as well as criminal sanctions, including imprisonment.<sup>24</sup>

## VI. ORDERING CLAUSES

19. **IT IS ORDERED** that, pursuant to Sections 4(i), 4(j), and 403 of the Communications Act, FCCFrequency must provide the written information requested in paragraphs 3 and 9, above. The response to the request for information must be provided in writing, signed under penalty of perjury by an authorized official at FCCFrequency with personal knowledge of the information and representations provided in the written response, and must be received by the FCC within thirty (30) calendar days after the release date of this Citation and Order.

20. **IT IS FURTHER ORDERED** that a copy of this Citation and Order shall be sent both by First Class U.S. Mail and Certified Mail, Return Receipt Requested, to FCCFrequency at 8359 Buffalo Avenue, Panorama City, CA 91402.

## FEDERAL COMMUNICATIONS COMMISSION

Charles A. Cooper  
District Director  
Los Angeles Office  
Western Region  
Enforcement Bureau

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<sup>23</sup> See 47 U.S.C. § 510.

<sup>24</sup> See 47 U.S.C. §§ 401, 501.