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Focus On FCC Fines

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Pirates are Twice as Bad as Expired Operators – A Texas college operating an unlicensed station faced only half the fine that a pirate would for the same offense. The Texas college had licensed a satellite station in 1994 and continued to operate it after the authorization had expired ten years later. Explaining that it thought the license was for 15 years, the college filed a renewal application and an application for special authority to continue operating.

The FCC noted that it usually whacked pirates with a \$10,000 penalty for operating without a license. However the FCC also recalled that recently it has been applying a more lenient standard to folks caught operating with an expired license. More specifically, the FCC relied upon a case from two years ago that set the ground rule that a person operating with an expired license would face a fine of \$5,000 (*i.e.*, half of the fine paid by pirates).

Demonstrating considerable indulgence, the FCC also decided that since the school had turned itself in and had submitted the necessary FCC paperwork – albeit late – the fine could be further adjusted down. In the end, the FCC reduced a possible \$13,000 fine (\$10,000 for operating without a license and \$3,000 for failure to file its paperwork) down to \$4,000. Readers are reminded that the best way to avoid a fine altogether is simply to make sure that all of your licenses are current.

Failure to reduce AM power not Minor to FCC – On several occasions monitored by an FCC agent, a New Jersey AM station did not lower its 5000 Watt signal to 500 Watts until an hour after it was supposed to do so – rather than power down at 8:30 p.m. power down, the station powered down at 9:30. The FCC found fault with this behavior and hit the station with a \$4,000 fine.

In response, the station stated that the hour delay was a “minor infraction” and that a \$4,000 penalty was not appropriate. The FCC did not miss the opportunity to reiterate that unauthorized pre-sunrise operations were considered a serious matter and the fine was not reduced. The FCC based its concern on the fact that the failure to lower power

poses the potential for interference to other broadcast stations.

AM licensees should ensure that their operations comply with the power restrictions on their FCC authorization. It appears that the New Jersey AM station's problems could have resulted from failure to adjust for daylight savings time. The power down was almost exactly one hour late. Licensees should be sure that their system properly adjusts for daylight savings time.

Write Back to the FCC or Pay Fine – As this column consistently reports, licensees fare well if they cooperate at least to some extent with the FCC. For example, recall the above story of the \$13,000 fine being reduced to \$4,000 in light of the cooperation. Conversely, the failure to cooperate may cause the FCC to become very angry. Like the scorned Alex Forrest (played by Glenn Close in *Fatal Attraction*), the FCC *won't* be ignored.

A company in North Carolina refused to provide the FCC with the information that it sought and it now faces a \$20,000 fine. The FCC and the company engaged in several telephone conversations, e-mails and other exchanges. As part of these exchanges – and not incidentally to determine the company's liability – the FCC demanded certain documents and answers. When the company stopped providing all the information, the FCC fired back with a \$20,000 fine. Readers should be certain that they reply to inquiries from the FCC and should do so with the advice of counsel.