

The Cost of Little Things – FCC Fines For Regulatory Noncompliance

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During the recent holiday season, we were all reminded of just how much things cost. We all suffered through sticker shock at the price of the latest hot gift item, heard about this year's estimate of the value of the items in the Twelve Days of Christmas, or worried about the cost of heating oil or natural gas as the dead of winter sets in. Given the bustle of activities starting out the New Year, many broadcasters may have overlooked recent actions of the FCC – where the Commission has been doing its Scrooge-like best to remind us of how much it costs to ignore or overlook regulatory compliance issues.

Almost every day in the past few months, the FCC's public notices have contained a litany of fines issued to broadcasters for violation of one rule or another. Many of these fines were for violations that, in the past, might have drawn just a written letter of admonition from the Commission or, in many cases, no reaction at all. Now, however, the Commission seems intent on extracting a financial penalty from broadcasters for all but the most minor transgressions. And these penalties are not insignificant, especially for small operators, but instead, in many cases, could be a significant financial blow to any station's bottom line.

As broadcasters are working to keep up with the New Year's resolutions they made just a month ago, they should be sure to add "*Careful Attention to FCC Rules*" to their list of things to do in 2006. Looking at a list of just some of the recent fines will provide an idea of the multitude of sins that the FCC has been discovering, and for which they have been fining stations.

Quarterly Issues Programs Lists – High on the license renewal "hot list" were fines issued for failure to have a complete set of Quarterly Issues Programs lists in the station's public inspection file. Even where the failures were 5 or more years old, the Commission has been issuing fines of \$9,000 or \$10,000 for violations that existed over multiple quarters.

Biennial Ownership Reports – The Commission has been issuing fines for station failures to have filed timely biennial ownership reports – even where the reports have later been submitted, and where there were no changes in ownership that would have been reported had the filings been timely made. Remember that your ownership reports are filed with your license renewal, and every two years thereafter, on the anniversary of the filing of the license renewal.

Children's Television Programming Reports – Similar to missing quarterly programs lists and ownership reports, the FCC has been unwilling to overlook children's television programming reports missing from a station's public file. The failure to file and place in the station's public file even one or two quarterly children's reports has recently resulted in \$4,000 fines at renewal time.

Children's Television Commercial Limits – Very large fines, up to \$20,000, have recently been issued to broadcasters who failed to pay attention to their commercialization in programming directed to children. Once a station exceeds approximately half a dozen overages of the commercial limits, fines beginning at \$8,000 are being assessed.

Failures to Publicize Children's Educational and Informational Programming – The Commission has fined stations \$4,000 for failing to notify the public of where information about the educational and informational programming aired on the station can be found, or to publicize a contact person at the station for the public to address concerns about children's programming issues.

Tower Fencing – Stations, particularly AM stations, have been hit with fines for failing to have secure fences around the base of broadcast towers. In one case, the tower was fenced, but the locks were broken, and there were parts of enclosure where, because of a slope in the terrain, the fence did not reach to the ground so that someone could climb under the fence to get to the tower base.

EEO – The FCC has issued two significant fines in recent months for the failure of stations to keep sufficient documentation of wide dissemination efforts for all job openings, and failing to keep records of recruitment sources used by interviewees to find out about the station opening for which the person applied. One of these recent case involving a number of missing documents and a lack of wide dissemination resulted in a \$20,000 fine. EEO random audits are continuing – so be prepared to respond should the FCC select your call letters in their audit lottery.

Improper Operations – Several stations have been hit with fines when FCC inspections determined that the stations were operating with facilities that had not been approved by the FCC – e.g. with antennas at the wrong height or power levels inconsistent with the station's license.

Noncommercial Station Issues – Even noncommercial stations have not been immune, as a number of fines have been issued to noncommercial station for running sponsorship announcements that contained a "call to action" or qualitative claims, in violation of FCC rules.

Main Studio Staffing – Fines have been issued to stations that did not have a main studio that was open and staffed during normal business hours.

These are but some of the regulatory areas in which the Commission has expressed concern. Other matters – including television stations failing to provide emergency information in a visual manner for the hearing impaired, indecency issues, and EAS violations – continue to be areas in which the FCC has focused its attention. Payola has also been much in the news as an area in which the Commission may begin to concentrate attention from its Enforcement Bureau. In addition, now that the Commission's rules on closed captioning of video programming have gone fully into effect, further enforcement actions in this area may well occur.

Clearly, in this environment, the FCC is emphasizing just how important it views all facets of regulatory compliance, as well as just how willing it is to hand out fines rather than warnings. And, unlike Scrooge, there were apparently no visits by kindly apparitions during the holidays, as the Commission's fines have continued into this new year. So beware – even the little things can cost a broadcaster significant sums – so make regulatory compliance a high priority in 2006.