

# FCC Proposes First Fines against Users of Cell Phone Jammers

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Two recent releases by the FCC expand its campaign against unlawful cell phone jammer use, which over the past few years has been limited to aggressive [enforcement against manufacturers and retailers](#). On April 9, 2013, the Federal Communications Commission released its first-ever forfeiture actions against *operators* of cell phone jammers, proposing that each operator be subject to a substantial forfeiture in excess of \$125,000. Notably, the Commission found that each operator committed four separate alleged violations for each jamming device it operated: operating a radio transmitting device without proper FCC authorization, using radio frequency devices that do not comply with the Commission's regulations, importing devices into the United States without first obtaining necessary equipment authorization and complying with related provisions, and interfering with licensed or otherwise authorized operations. Most importantly, the FCC did not provide warnings to the operator before proposing a fine.

The subjects of the Commission's actions were [The Supply Room, Inc.](#) ("Supply Room"), a manufacturer and distributor of military insignia, uniforms, and technical gear, and [Taylor Oilfield Manufacturing, Inc.](#) ("Taylor Oilfield"), a provider of oil field machinery, equipment, and related services and products. Each company had obtained jammers from overseas suppliers through online retail sales, and operated them at their commercial sites. The operations were brought to the Commission's attention in each case through anonymous complaints, which were then investigated by FCC Enforcement Bureau Field Offices. FCC agents first used direction findings techniques to confirm the location and frequencies of the jammers' operation and then contacted and interviewed management personnel at each company's location. Through the interviews, the companies volunteered that the jammers had been in operation from "a few months" in the case of Taylor Oilfield to "over two years" in the case of Supply Room. The two companies each voluntarily turned over their jammers to the FCC agents.

The Commission's notices of apparent liability ("NAL") are noteworthy for several reasons.

- First, the Commission made clear its intent to proceed against operators of unlawful jammers, and not just against manufacturers or commercial importers or retailers. This decision may, in part, have been because the operators here imported the devices themselves through Internet sales. The Commission concluded, moreover, that it was not required under the Communications Act to provide a warning to the operators before issuing its fines.
- Second, with one exception, as a starting point in calculating its proposed forfeitures, the Commission upwardly adjusted the penalties for each violation that the Commission decided to enforce – unauthorized operation, use of an unauthorized device, and interference – to \$16,000, the maximum per day violation under the Communications Act. In the case of Taylor Oilfield, the Commission based its calculation of a penalty for the interference violation of \$10,000 per

device rather than \$16,000. (The reasons for the disparate treatment are not explained, but the NALs indicate that Supply Room was operating its four jammers for at least two years rather than, in the case of Taylor Oilfield, just “a few months.”) As a result, for the twelve violations total attributed to the four devices in operation in each case, the Commission proposed forfeitures of \$192,000 against Supply Room and \$168,000 against Taylor Oilfield, before making 25% downward adjustments in each case for the companies’ voluntarily relinquishment of their devices to FCC agents. The downward adjustments resulted in final proposed forfeitures of \$144,000 and \$126,000, respectively – still fairly substantial proposed forfeitures.

- Third, the Commission noted that the maximum penalty for the operation of four unlawful jammers under a continuing violation theory (a maximum of \$112,500 *per jammer per violation*) would yield a maximum penalty of *\$1.3 million*. The FCC refrained from proposing such a substantial monetary forfeiture, in part, because these were the first NALs issued to business or individuals, implying that the proposed penalties in the future would potentially be substantially higher if the FCC deems it necessary to promote greater compliance.
- Fourth, the NALs conclude that businesses or individuals that use the Internet to make purchases from overseas firms for their own use may be considered as importers for purposes of enforcement of the FCC’s marketing regulations. However, the Commission chose in each of these two cases to not impose a penalty for the illegal importation of unauthorized radiofrequency devices. Thus, in effect, it chose to issue a citation for the alleged illegal importation rather than impose a penalty but warned that it would consider issuing forfeitures in the first instance for illegal importation by individuals and businesses of unauthorized equipment in the future.

Finally, these NALs may give some hint of the manner in which the Commission might proceed against industrial booster installations that are operated without consent of the commercial mobile licensees, as plainly required under the Commission’s recent order concerning consumer and [industrial booster systems](#). Like jammers, of course, boosters operate on the frequencies of commercial mobile operators. Especially where interference is reported, the Commission may choose to proceed against operators finding multiple rule violations, upwardly adjust the base penalties to ten or sixteen thousand dollars, and assess penalties on a per booster basis. It will be interesting to monitor whether these two NALs will serve as any sort of model should there be enforcement against industrial booster operators.