

FCC Steps up Efforts Against Cellphone Jammers and GPS Blockers

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In recent years, the FCC has conducted a number of investigations and initiated several enforcement matters against unauthorized marketing and use of cellphone jammers, GPS blockers, and similar equipment. To date, the agency has limited itself mostly to citations without monetary penalties, as well as enforcement advisories at irregular intervals. Eight recent orders, while they don't break with that pattern, and a new [consumer alert](#) and [tip line](#) indicate clearly that the Commission is ratcheting up its efforts in this area. It would not be surprising if the Commission soon finds reason to issue substantial forfeitures for illegal operation, especially if facts are present demonstrating that 9-1-1 or other emergency communications have been interfered with or if it finds a large corporation utilizing the unauthorized devices.

These eight matters, two released October 5, 2012, and another six released yesterday, each involved a citation and order issued against an individual. They are noteworthy for at least two reasons. As an initial matter, these orders reveal the FCC has been stepping up its "detection" efforts this year by trolling Craigslist to find violators of the marketing rules. In each recent instance, the Enforcement Bureau identified the violator by investigating Craigslist advertisements. In addition, in several of these cases, when the FCC agents contacted the marketers, posing as interested prospective buyers, the FCC was able to obtain admissions of operation of the unauthorized equipment, a separate violation. Indeed, in the case involving a [James Christopher Garcia](#), FCC staff arranged a meeting at a predetermined location with the assistance of local law enforcement, at which Mr. Garcia assembled the antennas and powered on the device and a purchase was made before the FCC agent disclosed his identity and seized the device. The other cases where illegal operation was cited, involving Messrs. [Naparty](#), [Bering](#), [Conde](#), and [Grabowsky](#) involved what the staff construed as admissions in e-mail communications only. Indicative of the Bureau's aggressive stance, Mr. Grabowsky's admission of use merely involved a statement (regarding the device) that "[i]t does get hot' when used", to quote the FCC's citation.

Thus, not only did the FCC determine that these parties offered the jammer for sale in violation of federal law - "the mere posting of a jamming device for sale on Craigslist or any other online site or bulletin board targeting U.S. consumers contravenes federal law" - but enforcement staff posed undercover as prospective purchasers to gather further evidence. One cannot doubt in the circumstances that this may be a more effective investigative method than issuing a letter of inquiry. Despite these sting-like operations, the Commission refrained in these citations and orders from issuing fines for the illegal operation of the jammer, which the FCC had the discretion to impose for a first violation. The FCC did, however, order the two parties to turn over information regarding their

sources for the jammers and any others they have had in their possession as well as their prior sales. In the citations, the FCC hinted that in the future it may not be so lenient with first time violators. The Commission underscored that it is "increasingly concerned" about jammer operation which is not excusable, even if on private property. It used the orders against these two individuals to "caution . . . potential violators that going forward, and as circumstances warrant, we intend to impose substantial monetary penalties, rather than (or in addition to) warnings, on individuals who operate a jammer." In short, the FCC has concluded that non-monetary penalties may no longer be effective in deterring unlawful operation by individuals. Be forewarned: when it comes to the FCC's investigation of jammers, it looks like there will be no more Mr. Nice Guy!

Simultaneously with the most recent six orders, the FCC released an enforcement advisory/consumer alert in English, Spanish, and Mandarin informing the public that it is unlawful to operate, import (including purchase by an individual from an overseas vendor), or sell even a single cellphone jammer, GPS blocker. The Enforcement Bureau announced that it "has a zero tolerance policy in this area and will take aggressive action against violators," including penalties potentially in excess of \$100,000 per violation. In addition to the warnings of its consumer alert, the Commission issued a news release enlisting the assistance of the public in its enforcement efforts and announcing that it had set up a new tip hotline "to make it easier for the public to report the use or sale of illegal cell phone, GPS or other signal jammers." Only time will tell how effective these measures and warnings shots will be.