More Enforcement Action at the FCC: Enforcement Bureau issues $600,000 Penalty for Wi-Fi Blocking

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On October 3rd, the FCC announced a settlement with Marriott International, Inc. and Marriott Hotel Services, Inc. to resolve an investigation into the hotel operator's use of a Wi-Fi monitoring and blocking system. In the investigation, the Commission concluded that an operator cannot use such a system to prevent users from connecting to the Internet via their own personal Wi-Fi networks, rather than being limited to the hotel's own Wi-Fi network, when these users did not pose a threat to the security of the hotel operator or its guests. This consent decree reminds hotel operators and property owners, as well as other property owners that, while they may control the deployment of fixed radio stations on their property, they may not interfere with communications, including Internet wireless access, that occur on their property using mobile devices. As part of the consent decree, the hotel operator agreed to pay $600,000 in "civil penalties" and to implement an extensive three-year compliance plan, with quarterly reporting, focusing on the hotel operator's access point containment features at all of its U.S. properties, including properties owned and/or operated by the company. The FCC initiated the investigation after receiving a complaint in March 2013 from an individual who was at one of the properties for a conference and claimed the hotel was jamming his personal mobile hotspot, or Wi-Fi hotspot, device. After investigation, the FCC Enforcement Bureau staff determined that employees of the hotel operator apparently were using the company's Wi-Fi monitoring system to restrict and interfere with personal hotspot devices used in the event facilities. Specifically, the investigation indicated that the employees activated a system containment capability that caused the sending of de-authentication packets to Wi-Fi Internet access points that were not part of the hotel operator's Wi-Fi system, were not authorized by the hotel operator, and that the hotel operator classified as 'rogue.' The Bureau staff concluded that these practices violated Section 333 of the Communications Act of 1934, as amended, which provides that "[n]o person shall willfully or maliciously interfere with or cause interference to any radio communications of any station licensed or authorized by or under this Act or operated by the United States Government." The FCC found that the hotel operator's blocking practices were compounded by additional information that the hotel operator was offering event attendees access to the hotel's Wi-Fi network, at the rate of $250 to $1,000 per device.

This consent decree is the latest example of recent FCC enforcement against so-called "jamming" activities by companies and individuals. In 2012, the Bureau conducted a campaign and issued an enforcement advisory and notice to raise awareness across industries that it is illegal to own, operate, sell, or manufacture devices that jam signals of commercial mobile radio service ("CMRS") operators and global positioning satellite ("GPS") system operations. In recent years, the Enforcement Bureau has launched multiple enforcement actions against companies manufacturing,

marketing, or operating jamming devices that can target CMRS or GPS operations.

This newest consent decree comports with the new policy shift for enforcement settlements. As with several other consent decrees we blogged about in the past several weeks, the settlement included an admission of liability and the monetary payments were characterized as “civil penalties,” rather than as “voluntary contributions,” as was Commission practice formerly.