

UNAUTHORIZED USE OF JAMMING EQUIPMENT

Presentation to
FCC Enforcement Bureau

CTIA – The Wireless Association®

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Background on Jammers

- The reliability of wireless communication – both commercial and adjacent public safety communication – is at risk of being undermined by the marketing and use of jammers.
 - Congress and the Commission repeatedly have recognized the critical role of commercial wireless in promoting public safety and the reliance of the public on wireless services in times of crisis and emergency, as well as for everyday use.
 - Operation of unauthorized jammers would severely undermine critical public safety initiatives – E-911, priority access services, emergency alerts, etc.
 - Cellular, SMR, PCS, and AWS licensees have invested billions of dollars in spectrum and networks to deliver consumers reliable, high-quality voice and data mobile wireless communications. Operation of unauthorized jammers threatens those efforts and consumers' expectations.
- Jammers are designed to prevent radio communications over certain frequencies.
 - Jammers are designed to transmit on the same radio frequencies as mobile wireless devices, disrupting the communication between the device and the corresponding base station.
- Because jamming is generally a crude, overly broad remedy to the problems it seeks to address – and gives rise to greater harms – Congress has severely limited the use of jammers.

Prohibitions on Jammers Under the Act

- The FCC has found that “[t]he intentional use of jammers is considered ‘malicious interference,’ which is strictly prohibited by the Communications Act of 1934, as amended, and by the FCC rules.”
 - Jammers, therefore, are not eligible for certification by the FCC and their sale or use is prohibited (except to and by the federal government).
- Section 333 of the Communications Act explicitly states than “[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.”
- Section 302 of the Communications Act provides the FCC with the tools for enforcing Section 333.
 - Section 302(a) authorizes the FCC to adopt regulations to control the interference potential of radio frequency devices.
 - Section 302(b) prohibits the manufacture, import and sale of equipment which does not comply with the interference control regulations adopted under 302(a).
- FCC June 27, 2005 Public Notice that Sale or Use of Jammers in the U.S. is Prohibited.

Attempts to Circumvent the Federal Ban on Jamming

- Enforcement Bureau citation issued May 22, 2008 to Phonejammer.com.
- CellAntenna and GEO Group seek various exceptions to the general prohibition on use of cellular jamming equipment.
 - In spite of claims to the contrary, each of these petitions – if granted – would necessarily result in interference with critical communications over commercial and adjacent public safety networks.
 - Each of the petitions is fatally flawed from a procedural perspective – CellAntenna asks for FCC rules that clearly violate the Act and GEO Group asks for forbearance without standing and when a change in the Act is the only path to the requested relief.
- A variety of legal alternatives to the use of illegal jammers exist to prevent cellphone use in prisons.
 - More comprehensive / effective searches;
 - Stronger anti-corruption measures and penalties;
 - Alternative / additional detection measure such as cellphone-sniffing dogs;

FCC Enforcement Action is Necessary

- The South Carolina Department of Corrections reportedly plans to demonstrate CellAntenna cellphone jamming equipment.
 - CellAntenna CEO acknowledges flouting the Act, but reportedly stated “we see no way we can get permission.” Comm. Daily, Oct. 27, 2008 at 9.
- FCC Enforcement Action is necessary to counter blatant violations of the Act:
 - **Option 1:** The Enforcement Bureau should issue an order directing the prison and the company not to conduct the demonstration. Under Section 401(b) of the Act, 47 U.S.C. 401(b), such an order would be enforceable in court by the Commission, the U.S. Attorney's Office, or by "any party injured" by a failure to obey the order (*e.g.*, wireless carriers that could experience interference).
 - **Option 2:** The FCC can ask the Justice Department to file suit to enjoin the demonstration. Such a suit would proceed pursuant to Section 401(a) of the Act, 47 U.S.C. 401(a), which gives district courts "jurisdiction, upon application of the Attorney General of the United States at the request of the Commission, alleging a failure to comply with or a violation of any of the provisions of this chapter by any person, to issue a writ or writs of mandamus commanding such person to comply with the provisions of this chapter."