

## [Big FCC Fines for Public File Violations for Commercial and Noncommercial Stations](#)

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The FCC today issued fines of as much as \$12,000 for public file violations. Together with [the fine issued earlier this week for a station that did not allow unrestricted access to its public file](#), these actions make clear how seriously the FCC takes the obligations of broadcast stations to maintain and make available their public inspection files. The fines issued today went to both **commercial and noncommercial stations**, with two noncommercial stations each receiving fines of \$8000 for not having complete public files. Violations are expensive - even if your station is owned by a noncommercial entity.

The [largest fine, \\$12,000](#), went to a commercial station that, when inspected by FCC Field Inspectors in March 2010, could not produce anything in its public file more recent than 2006. While the licensee claimed that the documents were kept at the office of the station owner several hundred miles away, the FCC found that the violation of having nothing from more than 3 years of operation was so egregious that an upward adjustment from the standard \$10,000 public file fine was warranted. The two fines issued to noncommercial stations were not as egregious, but still resulted in significant fines. A review of the details of those cases are instructive as to the excuses and mitigating circumstance that the FCC rejected when the licensees tried to argue for a significant reduction or elimination of the fine.

In [one case](#), the fine was issued against Drexel University in connection with its radio station. The fine arose from the station's 2006 license renewal application, where it admitted that its public file was missing quarterly issues programs lists from eight quarters in the first three years of its renewal period - 1998-2001. Based on those old, admitted violations, the FCC issued a \$10000 fine (reduced to \$8000 as set forth below). The University asked for a reduction in that fine for several reasons. First, the licensee argued that the public was not harmed, **as no one asked to view the FCC file during the license term**. The FCC rejected that argument - which has been raised before - stating that the the omission of even a single item from the public file is serious as "it diminishes the public's ability to determine and comment at renewal time on whether the station is serving its community." The FCC said that this was true whether or not anyone actually visited the file (without addressing how the public's ability to assess a renewal is harmed if no one ever even asks to review the file).

The University also argued that the station could not afford the fine, as the University only budgeted a set amount (at most \$15,904 per year) to the station. The fine would eat up that

budget, and payment of the fine from other University funds would reduce non-radio services and activities. The FCC also rejected that argument - finding that it did not show that the *licensee* could not pay the fine. As in [prior cases](#), the FCC looks to the entire licensee, not just its budget for radio, to determine if a fine can be paid.

Finally, the Licensee suggested that the fine violated the Small Business Regulatory Enforcement Fairness Act of 1996, as the same fine would apply to this small college station as would apply to a large commercial television station guilty of the same violation. Again, the FCC rejected the argument - finding that the FCC considered the SBREFA when it adopted its fine schedule and, because the FCC provides for reductions in cases where a small entity can't afford to pay, there is no violation of this Act. The only reduction was based on the licensee's past record of compliance, resulting in a reduction of \$2000 from \$10,000 to \$8,000.

The [other noncommercial case](#) involved a religious broadcaster, who also admitted in its renewal application that it did not have all of its quarterly issues programs lists in its files, for 11 of 17 quarters since the station came on the air. It also did not timely file one required Ownership Report. Here, too the licensee claimed financial hardship but the FCC found that the fine would constitute only 3.6% of annual revenue, so it was not excessive (citing [cases](#) that say that a fine of as much as 5% of revenue are reasonable).

While many broadcasters question the value of the public file, as it is seldom if ever visited by the public, compliance with this rule is obviously a high priority of the FCC. Public inspection file fines are quite expensive and, with license renewal coming up, it's important for all stations to be able to certify that the file is complete. Our *advisory on the required contents of the commercial public inspection file* is [here](#). Our latest *advisory on the requirements for the quarterly issues programs lists* is [here](#). Check your station's compliance today.

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