

FCC Makes Clear Noncommercial Broadcasters Get No Breaks on FCC Fines, Nor on Financial Hardship Showings

By David Oxenford

August 05, 2011

Noncommercial broadcasters get no breaks when dealing with proposed FCC fines, said the Commission's Media Bureau in two cases released this week. While many noncommercial broadcasters may yearn for a day when they were treated leniently if violations were discovered - getting off with perhaps an admonishment letter - those days are over, as they have been for some time. In one case released this week, the FCC specifically states that noncommercial broadcasters are no different than commercial ones when dealing with fines (or "forfeitures" as they are called by the FCC). **If the noncommercial broadcaster violates a rule, they will be treated just like a commercial broadcaster, and have to pay the same fine as would the commercial broadcaster.**

Noncommercial broadcasters have often argued that they cannot afford to pay big fines, as their budgets are limited. Even when noncommercial stations are owned by colleges or local governments, they have limited budgets, and fines don't figure into them. But, in two recent cases, the FCC has rejected arguments for the reduction of proposed fines based on financial hardship, in both cases **finding that the budget of the station was not important - it is the total budget of the licensee that is important in assessing if a fine is too much** (see our post about how the FCC determines if a fine should be reduced because its payment would create a financial hardship on a station). In the case cited above, the FCC said that it was the local government agency (a metropolitan school district) that was the licensee, and its financial resources should have been assessed in determining whether the proposed fine was too great. In a second case, it was a state university that owned the station, and the FCC said that it would look to the overall finances of the university in determining if the fine was too high - not the amount budgeted for the station. In neither case had the licensee put forward a financial showing for the full licensee organization, so the FCC rejected the requests for reductions of the fines based on financial hardship.

In these days of tight budgets throughout the noncommercial broadcasting sector, these determinations should be viewed with concern. We have seen many colleges and other local noncommercial groups giving up on broadcasting when costs got too high. Certainly, we don't want to see stations forced off the air by fines that become the straw that breaks the camel's back to some Board of Trustees of an educational institution or other noncommercial organization. And we know that many nonprofit stations are run with volunteer labor and minimal paid staff, and the last thing that many volunteers want to do is to keep up with the FCC paperwork. But, as these cases make clear, it is essential that someone do it. So be careful out there, as the FCC is not ready to treat you any differently than your commercial brethren when it comes to dealing with violations of their rules.

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