

What's the FCC's Statute of Limitations Policy on Broadcast Fines? New Cases Give Some Clarification

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When a problem arises with a station that could give rise to a fine, **how long does the FCC have to act on that complaint and issue a fine?** How long must a licensee worry about that problem and whether it will result in a fine? **Does a sale cut off liability** for a problem when the seller was the licensee? Two cases released yesterday, one resulting in a fine and the other where one was canceled, help explain the Commission's policy. The Communications Act says that the FCC cannot issue a fine (a "**forfeiture**" in FCC language) if the conduct occurred more than one year ago or before the beginning of the current license term, whichever is earlier. In these two cases, the FCC was faced with broadcasters who had problems in their last license renewal term - one filed its renewal late, and the other was missing Quarterly Issues Programs lists in its public file. In [the first case](#), the FCC on the same day granted a license renewal and issued a Notice of Apparent Liability proposing to fine a station for the late-filed renewal. In [the second case](#), the Notice of Apparent Liability for the missing QPIs was issued 3 days after the renewal grant. In both cases, the actions giving rise to the fine occurred far more than one year before the date of the FCC's Notice of Apparent Liability. In the case where the renewal grant and the Notice of Apparent Liability were issued on the same day, the FCC held that it could reach back to get the old misconduct, as the new license term had not yet begun when the NOA was issued. But in the [case](#) where the Notice of Apparent Liability was issued three days later, the fine was thrown out, as that 3 day old license precluded the FCC from going after any conduct that was more than one year old. So, if you get a renewal, you appear to be off the hook for conduct that occurred more than a year ago. Three days made a \$10,000 difference to this licensee.

But selling a station does not take you off the hook - if you are within the time limits discussed above. In [the case](#) where the fine was upheld, the licensee was no longer the station's owner, having sold it several years before. The company argued that, as it was no longer a licensee, it was not subject to FCC jurisdiction, and could not be made to pay a fine. The FCC rejected that assertion, finding that, because the actions took place when the company was an FCC licensee, and because the FCC acted within the time frames set out above, the fine was proper. So if you sell a station while an FCC investigation into one of your actions is still pending and that action could lead to a fine, you can't totally relax and enjoy the sales proceeds, as the FCC can still come after you!

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