

PROMETHEUS RADIO PROJECT

FLAME FILCHING, WAVE SNATCHING, PEOPLE-POWERED RADIO!
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Nonprofits, Low Power FM and Liability

What are the legal risks involved in running a radio station? Like any significant investment, ownership of a radio license comes with a degree of liability. In the field of broadcasting, FCC fines are the primary liability your organization might face. This document outlines the types of fines your station could face and how a complaint or random inspection could result in a fine.

Keep in mind that fines are relatively rare! The information below reflects a worst case scenario. These fines are easily preventable by having good procedures to make sure your station complies with FCC rules.

Forfeitures

The FCC maintains a list of “base amounts,” or standard fines for each type of infraction (found on page 26 of www.fcc.gov/Bureaus/Compliance/Orders/1997/fcc97218.pdf). The base amount for violating underwriting rules is \$2,000, and it’s \$7,000 for broadcasting obscene or indecent material. The FCC can modify the forfeiture amount based on various criteria.

Here is the complete list of criteria used to reduce or increase the forfeiture amount:

Downward Adjustment Criteria	Upward Adjustment Criteria
(1) Minor violation (2) Good faith or voluntary disclosure (3) History of overall compliance (4) Inability to pay	(1) Egregious misconduct (2) Ability to pay/relative disincentive (3) Intentional violation (4) Substantial harm (5) Prior violations of any FCC requirements (6) Substantial economic gain (7) Repeated or continuous violation

Fines imposed on non-commercial stations can be hefty, ranging from in the low hundreds to over ten thousand dollars. Since 2006, penalties have been imposed on LPFM stations for a variety of reasons, including:

- late filing for license renewal (\$250 - \$1,500)
- broadcasting commercial announcements (\$2,000 - \$5,000)
- operating at a greater antenna height than authorized (\$5,000)

In cases where fines would cause undue hardship to a station—reducing their capacity to serve the community or putting them out of business completely—the FCC has been willing to reduce the amount of the fine. However, the FCC takes into account the entire financial situation of the licensee, not just the budget of the station. You can read more about undue hardship decisions here (www.broadcastlawblog.com/2010/12/articles/fcc-fines/when-is-an-fcc-fine-too-big-analyze-license)

[e-gross-income-to-determine-hardship-for-noncommercial-licensees-too/](#)).

Complaints

FCC fines are relatively rare. If your station maintains its public file and EAS, follows on-air rules, and completes all scheduled FCC filings in a timely manner, you can be confident of avoiding fines. While the FCC does perform random inspections, you are not likely to hear from the FCC unless a member of the public files a complaint about your station with the FCC.

The most common complaints include indecent or obscene programming and signal interference. If the FCC receives a complaint they think is serious or if they receive a significant number of complaints, they will contact you to address the issue.

Before filing a complaint with the FCC, a listener is likely to first contact your station about the issue. Therefore, it is in your interest to address any complaints you receive from listeners. Often complaints can be resolved between a listener and the station before any official complaint is filed with the FCC. Records of any correspondence you have with the listener with the complaint might be useful later in demonstrating to the FCC that you made good faith efforts to address the complaint.

Inspections

The FCC performs inspections of radio stations both randomly and in response to public complaints. When a representative from the FCC arrives for an inspection, they will be checking to see if your station is abiding by the terms of your license and operating in accordance with the rules published in the Low Power FM Station Self-Inspection Checklist (www.fcc.gov/eb/bc-chklsts). It's a good idea to have a plan in place in case your station is selected for an unannounced FCC inspection. Who is the point-person who will interact with the FCC representative? Does the DJ on duty know who to call? Where do you keep the files your station is required to have by the FCC? For more information about FCC rules for station operation, visit our guide to the LPFM Self-Inspection Checklist prometheusradio.org/legal_compliance#self-inspection.