

# Excerpts from one FCC Notice of Apparent Liability

Before the  
Federal Communications Commission  
Washington, D.C. 20554

In the Matter of

|  |                            |
|--|----------------------------|
| Infinity Broadcasting Corporation of Florida | File No. EB-04-TP-478      |
| Licensee of Station WQYK-FM                  | NAL/Acct. No. 200532700005 |
| Tampa, Florida                               | FRN 0004036711             |
| Facility ID # 28619                          |                            |

## NOTICE OF APPARENT LIABILITY FOR FORFEITURE

Released: January 5, 2005

By the District Director, Tampa Office, South Central Region,  
Enforcement Bureau:

### I. INTRODUCTION

1. In this Notice of Apparent Liability for Forfeiture ("NAL"), we find that Infinity Broadcasting Corporation of Florida ("Infinity"), licensee of station WQYK-FM, 99.5 MHz, serving St. Petersburg, Florida, apparently willfully and repeatedly violated Section 1.1310 of the Commission's Rules ("Rules")<sup>1</sup> by failing to comply with radio frequency radiation ("RFR") maximum permissible exposure ("MPE") limits applicable to facilities, operations, or transmitters. We conclude, pursuant to Section 503(b) of the Communications Act of 1934, as amended ("Act"),<sup>2</sup> that Infinity is **apparently liable for forfeiture in the amount of twenty thousand dollars (\$20,000).**

## II. BACKGROUND

2. Infinity, licensee of station WQYK-FM, certified compliance with the RFR MPE limits in its renewal application for a licensed facility granted January 29, 2004.<sup>3</sup> The application contained an RFR exhibit for their location at the Park Tower Office Building at 400 North Tampa Street, Tampa, Florida. The exhibit stated that areas on the penthouse rooftop where the station is located exceed the Commission's MPE limits for controlled environments and that the areas are clearly identified and marked. The exhibit also stated that a plan is in effect and understood by all licensees at the antenna site to protect workers accessing the penthouse roof. Finally, the exhibit stated that access to the transmitting site is restricted and properly marked with warning signs and thereby classified as a controlled environment.

3. On May 25, 2004, agents from the Commission's Tampa Office of the Enforcement Bureau ("agent" or "agents") inspected the rooftop of the Park Tower Office Building. **Access to the main rooftop was restricted** to individuals with special keycards. **Signs on the rooftop access doors stated that areas on the rooftop exceed the Commission's public RFR limits. However, the signs did not indicate which areas on the rooftop exceeded the public or general population RFR limits.** Using a calibrated RFR meter, an agent found areas on the rooftop that exceeded the general population limit by 75-200%. The agents continued to the penthouse rooftop, which was restricted by an additional lock controlled by the front desk and accessed without passing by the warning signs on the main rooftop access doors. There were no RFR warning signs found on the penthouse rooftop, penthouse rooftop access door to the stairwell, inside the stairwell, or on the hatch itself. While surveying the penthouse rooftop, an agent, using a calibrated RFR meter, found that approximately 75% of the penthouse rooftop exceeded the RFR MPE general population limit. **The agent also found an unmarked and un-posted area**

**exceeding the RFR MPE occupational limit** within an 8-10 foot radius of a tower containing a UHF TV antenna, later identified as belonging to station WVEA-LP. The average power density level for this area measured 1700% of the general population RFR MPE limit or 340% of the RFR MPE occupational limit. The agent determined that there was a second UHF-TV and two FM radio stations, one of which belonged to station WQYK-FM, all on separate towers located on the penthouse rooftop at the time of inspection. The Park Tower Office Building's chief engineer, who accompanied the agents on this inspection, stated he and his personnel were not aware of areas exceeding the general population and occupational limits on the penthouse rooftop pointed out to him by the agent. **The building's chief engineer stated that he and his personnel access this rooftop on a fairly regular basis** to inspect it for maintenance and to conduct roofing repairs. He also stated that **neither he nor any of his maintenance crew or subcontractors had received any training** with respect to RFR hazards.

*..... Paragraphs 4-11 describe follow-on visits by FCC inspectors....*

### III. DISCUSSION

12. Section 1.1310 of the Rules requires licensees to comply with occupational and general population MPE limits for electric and magnetic field strength and power density for transmitters operating at frequencies from 300 kHz to 100 GHz.<sup>6</sup> Further, the Commission's Rules require that if the MPE limits are exceeded in an accessible area due to the emissions of multiple transmitters, actions necessary to bring the area into compliance ``are the **shared responsibility of all licensees whose transmitters produce, at the area in question, power density levels that exceed 5% of the power density exposure limit applicable to their particular transmitter.**"<sup>7</sup> The MPE limits specified in Table 1 of Section 1.1310 are used to evaluate the environmental impact of human exposure to RFR and apply to ``...all facilities, operations and transmitters regulated by the

Commission."<sup>8</sup> Table 1 in Section 1.1310 of the Rules provides that the general population/uncontrolled RFR maximum permissible exposure limit given in terms of mw/cm<sup>2</sup> for a station operating in the frequency range of 30-300 MHz is 0.2 mW/cm<sup>2</sup>.<sup>9</sup> Table 1 in Section 1.1310 of the Rules provides that the occupational/controlled RFR maximum permissible exposure limit given in terms of mw/cm<sup>2</sup> for a station operating in the frequency range of 30 MHz to 300 MHz is 1 mW/cm<sup>2</sup>.<sup>10</sup> Licensees bear the responsibility to restrict access to areas that exceed the RFR MPE limits or to modify the facility and operation so as to bring the station's operation into compliance with the RFR exposure limits prior to worker or public access to the impacted area.<sup>11</sup>

13. According to the building's chief engineer, none of his workers, who accessed the penthouse rooftop on a fairly regular basis in the course of their duties, were aware of the areas that exceeded the general population RFR MPE limit on the penthouse rooftop. In addition, the building's chief engineer stated none of these workers received any RFR training. Moreover, the areas on the penthouse rooftop that exceeded the general population RFR MPE limit were not marked in any way. **Although a generic warning sign was placed by the entrance to the main rooftop, this sign could not be seen by workers approaching the penthouse rooftop and was insufficient to warn workers of the hazards on the penthouse rooftop.**<sup>12</sup> Thus, these workers were ``exposed as a consequence of their employment, [were not] fully aware of the potential for exposure, and [could] not exercise control over their exposure."<sup>13</sup> **Therefore, even though access was controlled by locks, the penthouse rooftop was subject to the Commission's general population limits.**<sup>14</sup>

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16. It is the unique intention of Section 1.1310 of the Rules that the contribution of one station alone may not violate the rule, while that station, when joined by the RF contribution of other stations whose total RFR contributions exceed the MPE limits, may find itself in violation. Consequently, we require

licensees to work together to ensure compliance. As Infinity contributed over 5% of the total RFR exceeding the general population and occupational MPE limits, it is equally responsible for bringing the area into compliance, according to Section 1.1307 of our Rules.<sup>15</sup> Based on the evidence, we find that Infinity produced power density levels more than 5% of its general population and occupational limits and failed to bring the areas into compliance in apparent willful and repeated violation of Section 1.1310 of the Rules.

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#### IV. ORDERING CLAUSES

19. Accordingly, IT IS ORDERED that, pursuant to Section 503(b) of the Communications Act of 1934, as amended,<sup>22</sup> and Sections 0.111, 0.311, and 1.80 of the Commission's Rules,<sup>23</sup> Infinity Broadcasting of Florida, licensee of station WQYK-FM, is hereby NOTIFIED of this **APPARENT LIABILITY FOR A FORFEITURE in the amount of twenty thousand dollars (\$20,000) for willful and repeated violation of Section 1.1310 of the Rules by failing to comply with general population and occupational radio frequency radiation maximum permissible exposure limits.**

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FEDERAL COMMUNICATIONS COMMISSION

The forfeiture was subsequently reduced to \$10,000.

Click here to read entire Notice - <http://www.fcc.gov/eb/FieldNotices/2003/DOC-255967A1.html>