



It Seems to Us

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Toothless Tigers?

“Suddenly there is a lot of movement with respect to FCC enforcement — not all of it in the right direction.”

Every community has a few bad actors. Because there is an “entrance exam” we like to think that Amateur Radio ought to be an exception. Selective universities like to think the same thing, but recent events on some campuses have shown otherwise. People who don’t know how to behave can and do get in, although in a population of more than 700,000 licensees, the number of problem children is rather low.

Many problems can be addressed through various forms of peer pressure. Some can only be dealt with that way; behavior that violates the norms of our community may be annoying or even disgusting, but not necessarily illegal. However, malicious interference — any transmission made for the purpose of disrupting someone else’s communication — clearly crosses the line. In extreme, persistent cases we must look to the Federal Communications Commission to enforce its rules. In fact, we must insist on it.

Once in a while, the FCC does take enforcement action against one of its amateur licensees or someone operating without a license. We publicize those cases, in part as a deterrent. Knowing that someone else’s aberrant behavior led to a substantial fine should discourage similar behavior.

Unfortunately, the opposite is also true: persistent malicious interference coupled with the perception that nothing is being done about it leads to more of the same. Copycats emerge. Also, while our standard advice about malicious interference is to ignore it as best you can and never acknowledge when it’s occurring, thereby rewarding the jammer, some otherwise good people find that to be easier said than done. Out of frustration they try to retaliate and succeed only in making matters worse.

The FCC’s Enforcement Bureau has a huge and growing responsibility, and limited resources that cannot keep pace. To its credit, the Commission’s management recognizes that it cannot simply keep doing what it’s been doing and expect things to get better. We couldn’t agree more. The status quo is not satisfactory. Here’s why.

The Commission does indeed take enforcement action on amateur cases; the perception that nothing at all is being done is inaccurate. But there are a few high-profile situations that have been going on for a long time, sometimes for years, without visible enforcement action. There are others where the initial step of sending a Notice of Violation was taken, but the behavior has continued for months with no evidence of further action. In at least one recent case, the Commission issued a Notice of Apparent Liability for Forfeiture (NAL), proposing a hefty fine — but with no apparent followup after 8 months.

The most irritating delays are in cases where a licensee’s renewal application was, in the Commission’s jargon, “offlined for Enforcement Bureau Action.” If the renewal application was filed prior to expiration, the licensee is entitled to continue operating until final action is taken on the renewal. That’s a due process protection against arbitrary government action that all licensees should appreciate. However, in one egregious case, the offlining occurred 8 years ago and still has not been resolved. Such

delays undermine the credibility and effectiveness of the Commission’s enforcement program. The ARRL leadership expresses our concerns at every opportunity, most recently on March 18, 19, and 20 in meetings with Enforcement Bureau staff and on Capitol Hill.

With that as background, it is understandable that we received the news of the planned restructuring of the Enforcement Bureau field staff, discussed in “Happenings” this month, with more than a little skepticism. Given everything that’s on their plate — of which Amateur Radio is just a small part — reducing the number of field agents from 63 to 33 and the number of field offices from 24 to 8 hardly sounds like progress.

One element of the plan is the establishment of a “Tiger Team” of field agents based in Columbia, Maryland and available for deployment as needed. Presumably they would be sent into an area to work on a serious problem at high intensity for a set period, and then would move on. That might be effective in some cases but not in all. Jammers may be seriously misguided but they’re not necessarily stupid; they know that if they operate unpredictably they are less likely to be caught. It may take months for affected amateurs to document a pattern of operation — but even then, how likely is it that the FCC will send in the “Tiger Team” solely in response to amateur complaints? It’s more likely that our problems will receive attention, if at all, in combination with complaints from other services in the same geographic area. Catching the jammer will be as much a matter of luck as of anything else, and if the team’s visit is unproductive, it may be a long time before they return.

Another point of concern about the plan is a reference to “standardizing” investigation and sanction processes. Based on past experience, a “one size fits all” approach to Amateur Radio issues is unlikely to deliver the best outcomes.

To be fair, at least on its face the planned restructuring — described as “Enforcement Field Modernization Phase I” — is not all bad news. Its advocates, specifically the FCC Managing Director and Enforcement Bureau Chief, say that it will make radio frequency spectrum enforcement the primary focus of the field offices and that all field agents will have electrical engineering backgrounds. Offices such as in New York City, where the field agents are now spread too thin, will get more resources. Equipment will be pre-positioned so agents can be flown in and will not have to drive vans great distances. The existing management structure may indeed be top-heavy and could benefit from some streamlining.

As the saying goes, the proof of the pudding is in the eating. If the Commission goes forward with this plan it must deliver a meal that is palatable to skeptics like us.

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