



FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON, D.C. 20554

April 17, 2009

VIA CERTIFIED MAIL - RETURN RECEIPT REQUESTED
AND FACSIMILE AT 407-658-9433

Mark Stammel
General Manager
ProLingo
5075 Forsyth Commerce Road
Orlando, FL 32807

Re: **File No. EB-08-SE-1094**

Dear Mr. Stammel:

This is an official **CITATION**, issued to ProLingo pursuant to Section 503(b)(5) of the Communications Act of 1934, as amended (“Act”),¹ for marketing in the United States a radio frequency device, specifically, the Listentech LT700 transmitter, in a manner inconsistent with the terms of its authorization and the requirements of Section 15.237 of the Commission’s Rules (“Rules”),² in violation of Section 302(b) of the Act and Sections 2.803(a)(1) and 15.237 of the Rules.³ As explained below, future violations of the Commission’s rules in this regard may subject your company to monetary forfeitures.

In response to a complaint alleging that ProLingo was marketing, as a component of its simultaneous language interpretation systems, certain transmitters that operate on frequencies in the 72-76 MHz band which are restricted under Section 15.237 of the Rules to use by auditory assistance devices,⁴ the Enforcement Bureau’s Spectrum Enforcement Division (“Division”) issued a letter of inquiry (“LOI”) to ProLingo on February 19, 2009.⁵ ProLingo submitted its response to the LOI on March 2, 2009.⁶ ProLingo states in its response that it has been marketing the Listentech LT700 transmitter, which is manufactured by Listen Technologies Corporation (“Listen Technologies”) and certified under FCC ID # OMD700-002, since 2006.⁷ ProLingo also states that it does not import the device, but rather purchases

¹ 47 U.S.C. § 503(b)(5).

² 47 C.F.R. § 15.237.

³ 47 U.S.C. § 302a(b); 47 C.F.R. §§ 2.803(a)(1) and 15.237.

⁴ An auditory assistance device is defined as “[a]n intentional radiator used to provide auditory assistance to a handicapped person or persons.” 47 C.F.R. § 15.3(a).

⁵ Letter from Kathryn S. Berthot, Chief, Spectrum Enforcement Division, Enforcement Bureau, to Mark Stammel, General Manager, ProLingo (February 19, 2009).

⁶ Letter from Mark Stammel, General Manager, ProLingo, to Kathryn S. Berthot, Chief, Spectrum Enforcement Division, Enforcement Bureau (March 2, 2009).

⁷ *Id.* at 1, 3. ProLingo also indicates that it “buys and sells equipment from ... other manufacturers in this environment” but does not specifically identify any other transmitters that it resells as interpretation systems. *Id.* at

the device from a distributor in Hong Kong.⁸ ProLingo indicates that its current website, which has been up since August 2008, is the first marketing tool it has used that describes the Listentech LT700 transmitter (along with a separate receiver) as a language interpretation system.⁹ ProLingo asserts that printed marketing materials from the manufacturer, Listen Technologies, clearly state that the intended application of the device is language interpretation and provides a copy of these materials.¹⁰ Finally, ProLingo indicates that it will correct its marketing materials to ensure that it does not market auditory assistance devices as interpretation systems.¹¹

Section 302(b) of the Act provides that “[n]o person shall manufacture, import, sell, offer for sale, or ship devices or home electronic equipment and systems, or use devices, which fail to comply with regulations promulgated pursuant to this section.” Section 2.803(a)(1) of the Commission’s implementing regulations provides that:

no person shall sell or lease, or offer for sale or lease (including advertising for sale or lease), or import, ship, or distribute for the purpose of selling or leasing or offering for sale or lease, any radio frequency device unless ... [i]n the case of a device subject to certification, such device has been authorized by the Commission in accordance with the rules in this chapter and is properly identified and labeled as required by § 2.925 and other relevant sections in this chapter.

Pursuant to Section 15.201(b) of the Rules,¹² intentional radiators,¹³ such as the Listentech LT700, must be authorized in accordance with the Commission’s certification procedures prior to the initiation of marketing¹⁴ in the United States. In addition, under Section 15.237 of the Rules, intentional radiators operating in the frequency bands 72.0-73.0 MHz, 74.6-74.8 MHz, and 75.2-76.0 MHz are restricted to use as auditory assistance devices.¹⁵ Listen Technologies properly certified the Listentech LT700 transmitter under FCC ID # OMD700-002.¹⁶ The grant of certification identifies the device as a Part 15 auditory assistance device and indicates that the grant is made pursuant to Section 15.237. ProLingo acknowledges, however, that it has marketed the Listentech LT700 transmitter as a language interpretation system. Accordingly, it appears that ProLingo violated Section 302(b) of the Act and Sections 2.803(a)(1) and 15.237 of the Rules by marketing the Listentech LT700 transmitter in a manner that is inconsistent with the terms of its authorization and Section 15.237 of the Rules.

2. We note that this Citation also applies to any other transmitters, which ProLingo resells as interpretation systems, that are certified for operation on the frequency bands identified in Section 15.237 of the Rules.

⁸ *Id.* at 3.

⁹ *Id.*

¹⁰ *Id.* at 2.

¹¹ *Id.* at 3.

¹² 47 C.F.R. § 15.201(b).

¹³ Section 15.3(o) of the Rules defines an “intentional radiator” as a “device that intentionally generates and emits radio frequency energy by radiation or induction.” 47 C.F.R. § 15.3(o).

¹⁴ Section 2.803(e)(4) of the Rules defines “marketing” as the “sale or lease, or offering to sale or lease, including advertising for sale or lease, or importation, shipment or distribution for the purpose of selling or leasing or offering for sale or lease.” 47 C.F.R. § 2.803(e)(4).

¹⁵ *See* 47 C.F.R. § 15.237(a).

¹⁶ The grant of certification for the Listentech LT700 was issued on June 8, 2005.

If, after receipt of this citation, you violate the Communications Act or the Commission's rules in any manner described herein, the Commission may impose monetary forfeitures not to exceed \$16,000 for each such violation or each day of a continuing violation.¹⁷

You may respond to this citation within 30 days from the date of this letter either through (1) a personal interview at the Commission's Field Office nearest to your place of business, or (2) a written statement. Your response should specify the actions that you are taking to ensure that you do not violate the Commission's rules governing the marketing of radio frequency equipment in the future.

The nearest Commission field office appears to be the Tampa, Florida Field Office. Please call Kathryn Berthot at 202-418-7454 if you wish to schedule a personal interview. You should schedule any interview to take place within 30 days of the date of this letter. You should send any written statement within 30 days of the date of this letter to:

Kathryn Berthot
Spectrum Enforcement Division
Enforcement Bureau
Re: EB-08-SE-1094
Federal Communications Commission
445 12th Street, S.W., Rm. 3-C366
Washington, D.C. 2055

Under the Privacy Act of 1974, 5 U.S.C. § 552(a)(e)(3), we are informing you that the Commission's staff will use all relevant material information before it, including information that you disclose in your interview or written statement, to determine what, if any, enforcement action is required to ensure your compliance with the Communications Act and the Commission's rules.

The knowing and willful making of any false statement, or the concealment of any material fact, in reply to this citation is punishable by fine or imprisonment under 18 U.S.C. § 1001.

Thank you in advance for your anticipated cooperation.

Sincerely,

Kathryn Berthot
Chief, Spectrum Enforcement Division
Enforcement Bureau
Federal Communications Commission

¹⁷ See 47 C.F.R. § 1.80(b)(3).