

FCC Enforcement Order

Recently, the FCC's Enforcement Bureau and its Office of Engineering and Technology (OET) jointly issued an enforcement order and consent decree relative to Vector Manufacturing, Ltd. (Vector). Vector imported and marketed certain power supplies which did not comply with the FCC's equipment authorization rules. This unusual order indicates an increased influence for the Enforcement Bureau in equipment authorization matters, and should be noted by all electronics and computer-related manufacturers.

Background

Vector markets batteries, power adapters and related products. In May 2003, Vector disclosed to OET, which oversees the FCC's equipment authorization program, that it had been importing and marketing battery chargers which did not comply with Parts 2 and 15 of the FCC's Rules. Under these rules, the subject devices must be authorized in accordance with the FCC's verification procedure, and must comply with all applicable technical standards, including emission limits and labeling requirements, prior to marketing. Vector stated that it had incorrectly determined the devices to be exempt. OET referred the matter to the Bureau for possible sanctions.

Subsequently, Vector imported and marketed battery chargers which had been verified by a telecommunications certification body (TCB). Despite this, in August 2003, Vector disclosed to OET that there were "possible inconsistencies" in the verification reports it had received from the TCB. In response, the Bureau issued a public notice on September 23, 2003, advising retailers that Vector's battery chargers did not comply with Part 15 emission limits and that continued marketing of these products could result in an enforcement action. The company responded by filing a petition for reconsideration. Vector subsequently developed new models that comply with the FCC's Rules.

The Consent Decree

Under the terms of the consent decree, the Bureau agreed to terminate its investigation in exchange for Vector's promise to undertake corrective measures. Among these, Vector agreed that (1) henceforth its battery chargers would be verified and labeled in accordance with the FCC's Rules; (2) it would develop a quality assurance/quality control program to educate employees and to test its products for compliance with the FCC's Rules; and (3) it would implement an FCC regulatory compliance plan, including appointing a regulatory compliance officer charged with ensuring that Vector's products comply with the FCC's Rules. It further agreed to make a "voluntary contribution" of \$30,000 to the FCC. The decree contains customary disclaimers of admissions of liability.

Conclusion

The Vector order is not unprecedented: 10 years ago, Ford Motor Company was fined more than \$200,000 for having marketed keyless entry systems which were noncompliant with FCC Rules. However, it is unusual for OET to issue a joint order with the Enforcement Bureau, and certainly signals a higher profile for the Bureau in equipment authorization matters.

In light of the Vector order, manufacturer clients may wish to consider reviewing their FCC regulatory compliance programs. A proactive step of this nature, taken before problems have arisen, could help avoid the unpleasantness and negative publicity associated with the kind of situation Vector experienced.

For questions about this subject, please contact Ken Keane in our Washington, D.C. office at 202.776.5243, or the Duane Morris attorney with whom you are regularly in contact.