

**Federal Communications Commission**

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

In the Matter of	)	
Community Communications, Inc.	)	File No. EB-04-NY-160
Fair Lawn, New Jersey	)	Citation No. C20043238002
	)	

**CITATION**

**Released: July 1, 2004**

By the Enforcement Bureau, New York Office:

1. This is an official Citation issued pursuant to Section 503(b)(5) of the Communications Act of 1934, as amended (“Act”),<sup>1</sup> to Community Communications, Inc. (“Community”) for violation of Section 302(b) of the Act,<sup>2</sup> and Section 2.803(a)(1) of the Commission’s Rules (“Rules”).<sup>3</sup>

2. On June 25, 2004, Community offered for sale at their store located at 7-05 Fair Lawn Avenue, Fair Lawn, New Jersey, the following non-certified Citizens Band (“CB”) transceivers:

<u>NAME</u>	<u>MODEL</u>	<u>COST</u>
Galaxy	DX 33L	\$250
Galaxy	DX 44V	\$300
Galaxy	DX 66V	\$325
Galaxy	DX 48T	\$400
Galaxy	Mirage 9900	\$375
Galaxy	Mirage 6600	\$350

According to the Commission’s records, these devices have not received an FCC equipment authorization which is required for Citizens Band transmitters marketed in the United States.

3. Section 302(b) of the Act provides “No 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 Rules 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: (1) In the case of a device subject to certification, such device has been authorized by the

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<sup>1</sup> 47 U.S.C. § 503(b)(5)

<sup>2</sup> 47 U.S.C. § 302(b)

<sup>3</sup> 47 C.F.R. § 2.803(a)(1)

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Commission in accordance with the rules in this chapter and is properly identified and labeled...” Community’s offer for sale of these devices violates both sections.

4. Community marketed these devices as amateur transceivers. The Commission has evaluated radiofrequency devices similar to those listed in paragraph 2 and concluded that the devices at issue are not only amateur radios but can easily be altered for use as CB devices as well. A CB transmitter is a transmitter that operates or is intended to operate at a station authorized for the CB service, and it must be certificated by the FCC prior to marketing or importation.<sup>4</sup> The Commission has further concluded that these devices fall within the definition of a CB transmitter and therefore cannot legally be imported or marketed in the United States. *See* Response from the Commission’s General Counsel to U.S. Customs Service dated May 17, 1999, 14 FCC Rcd 7797 (1999).

5. Additionally, dual use CB and amateur radios of the kind at issue here may not be certificated under the Commission’s rules. Section 95.655(a) of the Rules<sup>5</sup> states “...([CB] Transmitters with frequency capability for the Amateur Radio Services...will not be certificated).” *See also* FCC 88-256, 1988 WL488084 (August 17, 1988). This clarification was added to explicitly foreclose the possibility of certification of dual use CB and amateur radios, *see id.*, and thereby deter use by CB operators of frequencies allocated for amateur radio use.

6. Furthermore, the Commission has revised Section 2.1204(a)(5) of its Rules<sup>6</sup> to prohibit all marketing and/or offering for sale in the United States of such devices even when the purchaser(s) had provided assurances that the transceivers are being bought solely for export. **ALL DOMESTIC MARKETING OF SUCH DEVICES VIOLATES THE COMMUNICATIONS ACT OF 1934, AS AMENDED, AND THE COMMISSION’S RULES.**

7. Subsequent violations of the Communications Act and/or the Commission’s Rules may subject the violator to substantial monetary forfeitures not to exceed \$11,000 for each such violation or each day of a continuing violation,<sup>7</sup> seizure of equipment through *in rem* forfeiture action, and criminal sanctions including imprisonment.<sup>8</sup>

8. Community may request a personal interview at the Commission’s Field Office nearest your place of business. The nearest office is the **New York Office, 201 Varick Street, Suite 1151, New York, New York 10014**, which you may contact by telephone at (212) 337-1865. You must schedule this interview to take place within fourteen (14) days of the date of this Citation. Alternatively, you may submit a written statement to the above address within fourteen (14) days of the date of this Citation. Any written statement should specify what actions have been taken to correct the violations outlined above. Please reference case number EB-04-NY-160 when corresponding with the New York Office.

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<sup>4</sup> *See* 47 C.F.R. §§ 95.603(c), 2.803

<sup>5</sup> 47 C.F.R. § 95.655(a)

<sup>6</sup> 47 C.F.R. § 2.1204(a)(5) revised effective February 28, 2000

<sup>7</sup> *See* 47 C.F.R. § 1.80(b)(3)

<sup>8</sup> *See* 47 U.S.C. §§ 401, 501, 503, 510

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9. This Citation shall be sent First Class U.S. Mail and, Certified Mail, Return Receipt Requested, to Community Communications, Inc., 7-05 Fair Lawn Avenue, Fair Lawn, New Jersey 07410.

10. The Privacy Act of 1974<sup>9</sup> requires that we advise you that the Commission will use all relevant material information before it, including any information disclosed in your reply, to determine what, if any, enforcement action is required to ensure compliance. Any false statement made knowingly and willfully in reply to this Citation is punishable by fine or imprisonment under Title 18 of the U.S. Code.<sup>10</sup> **Please be advised that if you choose not to respond to this Citation and a forfeiture is issued, your unresponsiveness will be considered in our assessment of a forfeiture amount.**

FEDERAL COMMUNICATIONS COMMISSION

Daniel W. Noel  
District Director  
New York Office

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<sup>9</sup> P.L. 93-579, 5 U.S.C. § 552a(e)(3)

<sup>10</sup> 18 U.S.C. § 1001 *et seq.*