

FCC Seeks \$3 Million Fine Against Drone Company

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In June, the Federal Communications Commission (“FCC”) proposed imposing a \$2.86 million fine against HobbyKing, a seller of “first-person view” navigation devices for unmanned aircraft systems (“UASs”). We [previously reported](#) a \$180,000 civil penalty that the FCC imposed on Lumenier Holdco LLC (“Lumenier”) for marketing UASs that operated outside of approved radio frequencies and exceeded FCC approved power levels.

As was the case with Lumenier, the FCC found that the devices sold by HobbyKing violated Section 203 of the Communications Act by operating on unapproved frequencies and by using excessive power levels. The FCC also rejected a disclaimer on HobbyKing’s website that attempted to shift responsibility to consumers for determining whether the devices were in compliance with “local laws” prior to purchasing. The FCC’s rejection of this defense is the result of the fact that the Equipment Authorization and Marketing Rules prohibit advertising non-compliant devices for sales, independent of whether sales actually occur.

The severity of the proposed fine against HobbyKing is the result of numerous additional factors, including the fact that HobbyKing is still selling non-compliant devices in the U.S. even after notification from the FCC. The FCC also recently issued an [enforcement advisory](#) regarding the sale of drones and, as evidenced by its actions against Lumenier and HobbyKing, is stepping up its enforcement activity.

UAS manufacturers must ensure that all aspects of their equipment are compliant with FCC regulations. Whether a UAS is FCC compliant is not simply limited to ensuring operation in approved frequency bands. UAS manufacturers must also ensure the transmitter’s compliance with the FCC’s Equipment Authorization and Marketing Rules, including but not limited to power limits and any potential equipment registration and approval requirements.

Companies must engage qualified counsel to ensure their devices comply with all FCC requirements and should not rely on internal technical expertise alone. Failure to ensure compliance may result in steep fines from the FCC from \$20,000 to \$150,000 *per day*, even if no adverse incidents ever occur.

For more information on this topic, contact a member of our [Transportation & Logistics Practice Group](#).

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