

Relevant Radio seeks to blunt impact of FCC penalty

WASHINGTON - Relevant Radio, which calls itself the United States' largest Catholic radio network, is negotiating with the Federal Communications Commission to erase a proposed \$4.7 million penalty levied after the network withdrew its bid in an Arizona radio spectrum auction.

Relevant Radio, which broadcasts Catholic-themed talk and music over 17 company-owned stations and 17 additional affiliates, said it expects a decision by the FCC before the year is out.

Under FCC regulations, the federal agency can eliminate all of the penalty, or none of it. There is no in-between.

Bob Atwell, chairman of Relevant Radio and its nonprofit parent, Starboard Media Foundation, said that the FCC is aware of Relevant's circumstances. The proposed penalty is "more than one-third of our (annual) budget" of \$12 million, he said, and more than the net worth of Advance Acquisitions, Starboard's for-profit arm that engaged in the auction.

By comparison, the FCC fines levied against CBS-owned Infinity Radio, which broadcast shock jock Howard Stern's morning show before Stern landed on satellite radio, totaled \$3.3 million, "and that was a multibillion-dollar corporation," Atwell told Catholic News Service in a Sept. 17 telephone interview.

The \$4.7 million is the difference between Advance's \$6.85 million bid in 2004 to the FCC for a new spot on the FM spectrum being created in Yarnell, Ariz., 85 miles from Phoenix, and the eventual sale price.

Advance Acquisitions, said Joe Gigante, its president and chief operating officer, had conducted three separate tests determining that the signal could reach the Phoenix metropolitan area. But when Advance discovered the software used in making those determinations was flawed and the conclusions incorrect, it withdrew the bid.

The spectrum was sold in 2006 to another bidder for \$2.23 million. The \$4.7 million penalty includes FCC costs for having to conduct a second auction.

The FCC rule penalizing Advance is meant to prevent a practice called "gaming." Atwell described how gaming works in radio: "You have two competitive radio companies. The competitor doesn't want the station but they don't want the

competition to get it either,” so one company manipulates the process by placing disproportionately high bids to scare off other would-be bidders – and once the bidding is over, that company withdraws the bid.

“If somebody had bid \$6.9 million, we wouldn’t have been facing all this,” said Gigante, who spoke to CNS along with Atwell. After Advance, as high bidder, withdrew from the first auction, it made no bids during the second auction, Atwell said, since it no longer had an interest in the spectrum.

Until that point, Advance had purchased existing radio stations for the Relevant network – often weak-signaled AM stations – with a “mixed bag” of success in petitioning the FCC for signal-strength boosts and coverage upgrades, according to Gigante. “It was the first time Advance had ever engaged in the bid process,” he added. “It was a novice effort.”

“The whole Starboard Media Foundation effort was originated by four of us who had no media background,” Atwell said. “Have we made some dumb things that novices do sometimes? Yes. Do we regret what we’ve done? ... The things we’ve done right far outweigh the things that haven’t worked out.”

Relevant has submitted affidavits from two of the three engineers who used the faulty software in making their determinations about the ability of the Yarnell station’s signal carrying to Phoenix; the third engineer died. Relevant is also considering suing the software manufacturer for damages associated with the botched bid.

“It’s been a troubling period from 2004 to now, keeping the operation going,” Gigante said. “The size of our organization versus a Clear Channel (the nation’s largest radio chain, which once owned 1,200 stations), we’re in two different leagues.”

He added, “We’re talking about \$4.7 million, and I don’t know of any organization, even Clear Channel, that takes that as a slap on the wrist. That’s the proverbial 800-pound gorilla.”