FCC Launches Payola Probes of 4 Radio Giants

Documents are sought from Clear Channel, CBS, Entercom and Citadel, sources say. The agency's step comes after settlement talks stall.

By Charles Duhigg, Times Staff Writer
April 20, 2006

The Federal Communications Commission on Wednesday launched formal investigations into pay-for-play practices at four of the nation's largest radio corporations, the biggest federal inquiry into radio bribery since the congressional payola hearings of 1960.

Two FCC officials with direct knowledge of the matter confirmed that the agency had requested documents from Clear Channel Communications Inc., CBS Radio Inc., Entercom Communications Corp. and Citadel Broadcasting Corp. over allegations that radio programmers had received cash, checks, clothing and other gifts in exchange for playing certain songs without revealing the deals to listeners, a violation of federal rules.

The FCC requests, known formally as "letters of inquiry," are the first step in investigations that could result in sanctions ranging from financial penalties to the revocation of stations' licenses.

An FCC spokeswoman declined to comment. Representatives of the four radio companies could not be reached for comment.

In the past, radio executives at In the past, radio executives at

The four broadcasters have been negotiating with the FCC for weeks to forestall a federal inquiry by offering to discontinue certain practices and pay limited fines. But those talks stalled last month over the issue of how much the broadcasters should pay.

Clear Channel proposed a fine of about $1 million, according to people with knowledge of the negotiations. Some commissioners were pushing for as much as $10 million, those sources said.

"We were in the process of trying to reach settlements, but when talks were inconclusive, we decided we needed more information," said an FCC official who spoke on the condition of anonymity because the investigation was continuing. "We will continue to speak with the parties and to hold those who have violated commission rules accountable."

The FCC requires that radio listeners be informed anytime there is an exchange of value for airplay of specific songs.

The FCC's action comes amid New York Atty. Gen. Eliot Spitzer's pay-for-play probe, launched in 2004, which has alleged wrongdoing by both music and radio companies. In February, Spitzer sued Entercom, alleging that high-ranking executives had implemented scams to trade cash for airplay of songs by such artists as Avril Lavigne, February, Spitzer sued Entercom, alleging that high-ranking executives had implemented scams to trade cash for airplay of songs by such artists as Avril Lavigne, February, Spitzer sued Entercom, alleging that high-ranking executives had implemented scams to trade cash for airplay of songs by such artists as Avril Lavigne,

"We were in the process of trying to reach settlements, but when talks were inconclusive, we decided we needed more information," said an FCC official who spoke on the condition of anonymity because the investigation was continuing. "We will continue to speak with the parties and to hold those who have violated commission rules accountable."

The four broadcasters have been negotiating with the FCC for weeks to forestall a federal inquiry by offering to discontinue certain practices and pay limited fines. But those talks stalled last month over the issue of how much the broadcasters should pay.

Clear Channel proposed a fine of about $1 million, according to people with knowledge of the negotiations. Some commissioners were pushing for as much as $10 million, those sources said.

"We were in the process of trying to reach settlements, but when talks were inconclusive, we decided we needed more information," said an FCC official who spoke on the condition of anonymity because the investigation was continuing. "We will continue to speak with the parties and to hold those who have violated commission rules accountable."

The FCC requires that radio listeners be informed anytime there is an exchange of value for airplay of specific songs.

The FCC's action comes amid New York Atty. Gen. Eliot Spitzer's pay-for-play probe, launched in 2004, which has alleged wrongdoing by both music and radio companies. In February, Spitzer sued Entercom, alleging that high-ranking executives had implemented scams to trade cash for airplay of songs by such artists as Avril Lavigne,
Radio programmers at stations around the country say that fear of regulatory scrutiny has scared them into airing fewer new songs. Instead, many stations are sticking to less diverse playlists.

Bryan Tramont, who served as chief of staff to former FCC Chairman Michael K. Powell and is now an attorney in private practice, said the inquiry appeared to be more than a fishing expedition. "The FCC would only launch a formal investigation if they had information leading them to believe possible violations have occurred," he said.

Other FCC insiders said this new stage of investigation could put broadcasters more at risk of previously undiscovered evidence of wrongdoing being found. The investigation could give the FCC access to millions of previously unexamined documents. It could also expand to include stations and radio executives across the nation. "Until now, we've been limited to the evidence Spitzer gave us, but a formal investigation will compel the radio companies to answer certain questions, which are usually pretty exhaustive," said another current FCC official familiar with the inquiry. "It will all be on the record now, and once we start demanding documents, we can keep going until we're convinced we've found everything."

Spitzer has been critical of the FCC's negotiations with radio companies, saying that if the federal government allowed stations to settle it would undercut his efforts to force tougher sanctions and rules on the industry. "Unfortunately the FCC, contrary to good public policy, has not pursued an investigation of the underlying facts," Spitzer said in April. His representative could not be reached for comment.

The last time the FCC took action on pay-for-play allegations was in 2000, when it fined two stations in Texas and Michigan $4,000 each for not disclosing payments received from A&M Records in exchange for playing songs by Bryan Adams. But the investigation launched Wednesday was evidence of the FCC's vigilance, said federal officials. "The chairman has always taken these allegations seriously," said one FCC official, referring to FCC Chairman Kevin J. Martin. "We're not worried about criticisms."

The FCC's new investigation is the largest federal radio bribery inquiry since Congress opened hearings on pay-for-play in 1960. Those inquiries resulted in the first federal "payola" laws and killed the career of famed disc jockey Alan Freed, who pleaded guilty to two counts of commercial bribery and was fined $300.