

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

In the Matter of:)	
)	712CB0003
California Oregon Broadcasters, Inc.)	
)	
)	

NOTICE OF FORFEITURE

Adopted: April 26, 2001

Released: April 30, 2001

By the Chief, Cable Services Bureau:

1. The Cable Services Bureau issued a Notice of Apparent Liability for a forfeiture, pursuant to Section 503(b) of the Communications Act of 1934, as amended, in the amount of ten thousand dollars (\$10,000) for California Oregon Broadcaster's ("COB") apparent repeated violation of Section 301 of the Act. The Bureau found that COB had operated Cable Television Relay Service Stations WHZ-772 and WGV-580 without Commission authorization, and that COB had added channels to Station WHZ-772 without the requisite Commission authorization.¹

2. COB has requested that the Bureau rescind or mitigate the amount of the forfeiture based on its history of compliance as a Commission licensee and its good faith efforts to cooperate with the Commission. COB contends that it has operated a network of television stations and associated auxiliary facilities over an extended period of time, and has never been assessed a Commission forfeiture. COB also argues that it promptly and openly admitted its error in adding channels pursuant to Commission inquiry. COB claims that such good faith, voluntary cooperation with a Commission investigation is a factor which justifies rescission or reduction of the forfeiture amount.

3. We do not agree that COB's conduct after the staff's inquiry into this matter began provides a basis for a downward adjustment of the proposed forfeiture. The record in this matter shows that COB only admitted using unauthorized channels over a period of time in response to inquiries from the Commission's staff who discovered the unauthorized addition of channels when COB was required to file a request for Special Temporary Authority to operate its facilities. Cooperation from licensees is expected in these circumstances and is not the basis for a forfeiture reduction. In addition, it is well settled that subsequent corrective action will not relieve liability nor avoid a forfeiture, and that Commission licensees are expected to be cognizant of the rules and operate their facilities accordingly.²

4. COB contends that its longstanding compliance is recognized as a downward adjustment in the Commission's *Forfeiture Policy Statement and Amendment of Section 1.80 of the Rules to*

¹ See Letter to Patricia C. Smullin, President, California Oregon Broadcasting, Inc. (CSB, rel. October 30, 1997).

² See, e.g., *Executive Broadcasting Corp.*, 3 FCC 2d 299 (1969).

*Incorporate the Forfeiture Guidelines.*³ While Section 503(b)(2) of the Communications Act requires us to consider a licensee's history of prior offenses, or lack thereof, in determining the forfeiture amount, it does not mandate that we reduce the forfeiture amount simply because the licensee has no history of prior offenses. A licensee's compliance history must be considered with other factors.⁴ In the instant matter, multiple violations occurred over an extended period of time until discovered by the Commission. The facts of the violations were not voluntarily disclosed, but were educed through a series of inquiries by Commission staff. The addition of unauthorized channels to one station and the operation of two stations without authorization because of failure to renew the licenses occurred well before the Commission staff discovered them and were revealed only upon discovery by Commission staff. Further, the Notice of Apparent Liability consolidated the violations which accounted for a lesser forfeiture amount than was potentially the case. Accordingly, we do not agree that COB's past compliance merits reduction of the forfeiture.

5. Accordingly, pursuant to Section 503(b) of the Communications Act of 1934, as amended, 47, U.S.C. Section 503(b), and Section 1.80 of the Commission's Rules, 47 C.F.R. Section 1.80, **CALIFORNIA OREGON BROADCASTERS, INC. IS LIABLE FOR A FORFEITURE** in the amount of ten thousand dollars (\$10,000) for its repeated violation of Section 301 of the Communications Act, 47 U.S.C. Section 301.

6. **IT IS FURTHER ORDERED, PURSUANT TO** Section 1.80(f)(4) of the Commission's Rules, 47 C.F.R. Section 1.80(f)(4), that California Oregon Broadcasters, Inc. **SHALL HAVE** thirty (30) days from the release of this Order to **PAY THE FORFEITURE**. Payment may be made by mailing a check or similar instrument to the order of the Federal Communications Commission, P.O. Box 73482, Chicago, Illinois 60673-7482. The payment should be marked "NAL Acct. No. 712CB0003."

7. **IT IS FURTHER ORDERED** that two copies of this Order **SHALL BE SENT TO CALIFORNIA OREGON BROADCASTERS, INC.** by Certified Mail, Return Receipt Requested.

FEDERAL COMMUNICATIONS COMMISSION

Deborah A. Lathen
Chief, Cable Services Bureau

cc: Marnie K. Sarver, Esq.

³ 12 FCC Rcd 17087 (1997).

⁴ See Memorandum Opinion and Forfeiture Order, Liability of Gary M. Cocola, 15 FCC Rcd 9192, para. 14 (2000); Memorandum Opinion and Forfeiture Order, Liability of CRC Broadcasting Company, Inc., 15 FCC Rcd 6697, para. 6 (1999).

