

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

In the Matter of)	
)	
Media General Communications, Inc.)	Facility ID No. 51598
Station KALB-TV)	NAL/Acct. No. 0641420040
Alexandria, Louisiana)	FRN: 0002050185
)	File No. BRCT-20050201AXN

**NOTICE OF APPARENT
LIABILITY FOR FORFEITURE**

Adopted: March 22, 2006

Released: March 29, 2006

By the Chief, Media Bureau:

I. INTRODUCTION

1. The Commission, acting pursuant to Section 503(b) of the Communications Act of 1934, as amended,¹ by the Chief, Media Bureau, pursuant to delegated authority,² has before it for consideration the above-captioned renewal application of Media General Communications, Inc. (“Media General”) for the license for Station KALB-TV, Alexandria, Louisiana. We find that Media General apparently willfully and repeatedly violated Sections 73.3526(e)(11)(ii) and 73.3526(e)(11)(iii) of the Commission’s Rules (the “Rules”) by failing to place in the station’s public inspection file records concerning its compliance with the children’s programming commercial limits and its Children’s Television Programming Reports.³ For the reasons discussed below, we find Media General apparently liable for a forfeiture in the amount of fifteen thousand dollars (\$15,000) for these violations.

II. BACKGROUND

2. Section 73.3526 of the Rules requires a commercial broadcast licensee to maintain a public inspection file containing specific types of information related to station operations.⁴ Pursuant to subsection 73.3526(e)(11)(ii), each commercial television broadcast station is required to place in its public inspection file, on a quarterly basis, records sufficient to allow substantiation of the licensee’s certification, in its renewal application, of its compliance with the children’s television commercial limits imposed by Section 73.670 of the Rules.⁵

¹ 47 U.S.C. § 503(b).

² 47 C.F.R. § 0.283.

³ See 47 C.F.R. §§ 73.3526(e)(11)(ii) and 73.3526(e)(11)(iii).

⁴ See 47 C.F.R. § 73.3526.

⁵ 47 C.F.R. § 73.670.

Moreover, as set forth in subsection 73.3526(e)(11)(iii), each commercial television licensee is required to prepare and place in its public inspection file a Children's Television Programming Report (FCC Form 398) for each calendar quarter reflecting, *inter alia*, the efforts that it has made during the quarter to serve the educational and informational needs of children. These subsections of Section 73.3526 require licensees to place such records concerning commercial limits and Children's Television Programming Reports for each quarter in the station's public inspection file by the tenth day of the succeeding calendar quarter. Where lapses occur in maintaining the public file, neither the negligent acts nor omissions of station employees or agents, nor the subsequent remedial actions undertaken by the licensee, excuse or nullify the licensee's rule violation.⁶

3. On February 1, 2005, Media General filed its above-captioned license renewal application (FCC Form 303-S) for Station KALB-TV (the "Application"). In response to Section IV, Question 3 of the Application, Media General stated that, during the previous license term, it had failed to timely place in its public inspection file all of the documentation required by Section 73.3526 of the Rules. In Exhibit 17, it indicated that, throughout the term, it prepared and placed in the station's public file TV issues/programs lists, Children's Television Programming Reports, and records concerning compliance with the commercial limits in children's programming. Nonetheless, Media General reported that, in December 2004, it discovered that during the license term, it had erroneously been placing its Children's Television Programming Reports and records of compliance with the commercial limits into a "separate document retention system after they had been retained in the public inspection file for two years after filing." Thus, Media General indicates that, in preparing the Application, it discovered that its Children's Television Programming Reports and records of compliance with the commercial limits from 1997 through 2002 had been removed from the public file. It represents that, upon this discovery, it promptly placed copies of these documents in the station's file.

III. DISCUSSION

4. Media General's failure to retain in its Station KALB-TV public inspection file records concerning children's programming commercial limits and Children's Television Programming Reports constitutes an apparent willful and repeated violation of Sections 73.3526(e)(11)(ii) and (iii) of the Rules. Section 503(b) of the Act provides that any person who willfully or repeatedly fails to comply substantially with the terms and conditions of any license, or willfully fails to comply with any of the provisions of the Act or of any rule, regulation or order issued by the Commission thereunder, shall be liable for a forfeiture penalty.⁷ In

⁶ See *Padre Serra Communications, Inc.*, 14 FCC Rcd 9709 (1999) (citing *Gaffney Broadcasting, Inc.*, 23 FCC 2d 912, 913 (1970) and *Eleven Ten Broadcasting Corp.*, 33 FCC 706 (1962)); *Surrey Range Limited Partnership*, 71 RR 2d 882 (FOB 1992).

⁷ 47 U.S.C. § 503(b).

Section 312(f)(1) of the Act, 47 U.S.C. § 312(f)(1), which applies to violations for which forfeitures are assessed under Section 503(b) of the Act, provides that "[t]he term "willful", when used with reference to the commission or omission of any act, means the conscious and deliberate commission or omission of such act, irrespective of any intent to violate any provision of this Act or any rule or regulation of the Commission authorized by the Act" See *Southern California Broadcasting Co.*, 6 FCC Rcd 4387 (1991).

determining the appropriate forfeiture amount, we must consider the factors enumerated in Section 503(b)(2)(D) of the Act, including “the nature, circumstances, extent and gravity of the violation, and, with respect to the violator, the degree of culpability, any history of prior offenses, ability to pay, and such other matters as justice may require.”⁸

5. *The Commission’s Forfeiture Policy Statement* and Section 1.80 of the Rules establish a base forfeiture amount of \$10,000 for public file violations.⁹ In this case, Media General concedes that the station’s records concerning compliance with commercial limits in children’s programming and Children’s Television Programming Reports for 1997 through 2002 were not retained in the public inspection file. Moreover, it appears that Media General did not discover these deficiencies until it prepared the Application. As a result, the public file was missing numerous required documents for an extended period of time. Considering the record as a whole, we believe that a proposed forfeiture in the amount of \$15,000 is appropriate for the violations in this case.

IV. ORDERING CLAUSES

6. Accordingly, IT IS ORDERED that, pursuant to Section 503(b) of the Communications Act of 1934, as amended, and Sections 0.283 and 1.80 of the Commission’s Rules,¹⁰ Media General Communications, Inc. is hereby NOTIFIED of its APPARENT LIABILITY FOR FORFEITURE in the amount of fifteen thousand dollars (\$15,000) for its apparent willful and repeated violation of Sections 73.3526 (e)(11)(ii) and (iii) of the Rules.

7. IT IS FURTHER ORDERED that, pursuant to Section 1.80 of the Rules, within thirty (30) days of the release date of this Notice of Apparent Liability, Media General Communications, Inc. SHALL PAY the full amount of the proposed forfeiture or SHALL FILE a written statement seeking reduction or cancellation of the proposed forfeiture. Payment of the forfeiture must be made by check or similar instrument, payable to the order of the Federal Communications Commission. The payment must include the NAL/Acct. No. and FRN No. referenced above. Payment by check or money order may be mailed to Federal Communications Commission, at P.O. Box 358340, Pittsburgh, PA 15251-8340. Payment by overnight mail may be sent to Mellon Bank/LB 358340, 500 Ross Street, Room 1540670, Pittsburgh, PA 15251. Payment by wire transfer may be made to ABA Number 043000261, receiving bank Mellon Bank, and account number 911-6106. Requests for full payment of the proposed forfeiture under the installment plan should be sent to: Chief, Revenue and Receivables Operations Group, 445 12th

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Section 312(f)(2) of the Act provides that “[t]he term “repeated,” when used with reference to the commission or omission of any act, means the commission or omission of such act more than once or, if such commission or omission is continuous, for more than one day.” 47 U.S.C. § 312(f)(2).

⁸ 47 U.S.C. § 503(b)(2)(D); *see also Forfeiture Policy Statement and Amendment of Section 1.80(b) of the Rules to Incorporate the Forfeiture Guidelines*, 12 FCC Rcd 17087, 17100 (1997) (“*Forfeiture Policy Statement*”), *recon. denied*, 15 FCC Rcd 303 (1999); 47 C.F.R. § 1.80(b)(4).

⁹ 47 C.F.R. § 1.80(b)(4), note to paragraph (b)(4): Section I. Base Amounts for Section 503 Forfeitures; *Forfeiture Policy Statement*, 12 FCC Rcd at 17113, Appendix A, Section I.

¹⁰ 47 C.F.R. §§ 0.283 and 1.80.

Street, S.W., Room 1-A625, Washington, D.C. 20554.¹¹

8. The response, if any, must be mailed to Office of the Secretary, Federal Communications Commission, 445 12th Street, S.W., Washington, D.C. 20554, ATTN: Barbara A. Kreisman, Chief, Video Division, Media Bureau, and MUST INCLUDE the NAL/Acct. No. referenced above.

9. The Commission will not consider reducing or canceling a forfeiture in response to a claim of inability to pay unless the respondent submits: (1) federal tax returns for the most recent three-year period; (2) financial statements prepared according to generally accepted accounting practices (“GAAP”); or (3) some other reliable and objective documentation that accurately reflects the respondent’s current financial status. Any claim of inability to pay must specifically identify the basis for the claim by reference to the financial documentation submitted.

10. Finally, IT IS FURTHER ORDERED that copies of this Notice shall be sent by First Class and Certified Mail, Return Receipt Requested, to Mr. George L. Mahoney, Media General Communications, Inc., 333 East Franklin Street, Richmond, Virginia 23219, and to Media General’s counsel, Kevin P. Latek, Esquire, Dow, Lohnes & Albertson, PLLC, 1200 New Hampshire Avenue, N.W., Suite 800, Washington, D.C. 20036.

FEDERAL COMMUNICATIONS COMMISSION

Donna C. Gregg
Chief, Media Bureau

¹¹ See 47 C.F.R. § 1.1914.