



FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON, D.C. 20554

DA 07-1601

April 3, 2007

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

Mr. James Shelton
P.O. Box 766
Fallbrook, California 92028

Gregory S. Drake, Senior Counsel
Legal Department
Los Angeles Division
Time Warner Cable
959 South Coast Drive
Suite 300
Costa Mesa, California 92626

Re: Time Warner Cable Offices at Torrance, Garden Grove, and Gardena, California

Gentlemen:

By letter dated March 7, 2007, the Media Bureau denied the October 4, 2005, complaint of James Shelton against Time Warner Cable ("Time Warner") alleging violations of the Commission's Equal Employment Opportunity ("EEO") rules applicable to multi-channel video programming distributors ("MVPDs").¹ Pursuant to Section 4(i) of the Communications Act of 1934, as amended,² and Sections 0.283 and 1.113 of the Commission's Rules (the "Rules"),³ on our own motion, we hereby modify that Letter to the extent discussed below and admonish Time Warner for its violation of Section 76.1702(a) of the Rules.⁴

¹ DA 07-1069 (March 7, 2007) (the "Letter").

² See 47 U.S.C. §154(i).

³ 47 C.F.R. §§ 0.283, 1.113.

⁴ See 47 C.F.R. § 76.1702(a). As noted in footnote 1 of our Letter, Mr. Shelton also alleged the violation by Time Warner of the Commission's general cable public file rule, 47 C.F.R. § 76.1700. That portion of Mr. Shelton's complaint was addressed by the Enforcement Bureau by Memorandum Opinion and Order, DA 07-1070, released March 7, 2007 (the "*Time Warner MO & O*"), in which the Enforcement Bureau admonished Time Warner for its violation of Section 76.1700 of the Rules, a ruling unaffected by this letter.

In his complaint, Mr. Shelton alleged, among other things, that Time Warner did not maintain its EEO files for public inspection at its Torrance and Garden Grove, California, offices, in violation of Section 76.1702(a). In the Letter, citing *Reminder of Cable Television System Public Inspection File Obligations*, Public Notice, 19 FCC Rcd 23632 (2004) (the “Public Notice”), we noted that the Commission allows an MVPD with multiple business offices to maintain one system public file location. Accordingly, with regard to Mr. Shelton’s complaint that the EEO files were not made available to him upon his request at the Time Warner locations that he visited in Torrance and Garden Grove, we concluded that Time Warner had not violated Section 76.1702(a). In so acting, we accepted Time Warner’s explanation in its response to the complaint that it relied on the *Public Notice* to conclude that it need maintain those files only at Gardena and Orange, California, the offices at which the Torrance and Garden Grove system headends are respectively located.⁵

Unlike general public inspection files, which, as noted in the *Public Notice*, may be centrally located, Section 76.1702(a) places the additional obligation upon an MVPD to maintain and make available for public inspection its EEO file, not only at its central system location, but also at every location at which it has six or more full-time employees.⁶ We hereby clarify that the *Public Notice* relates only to the obligations of an MVPD under Section 76.1700 regarding the maintenance and availability of its general public inspection file.⁷ It does not modify an MVPD’s obligations under Section 76.1702(a) with regard to its EEO file, obligations which Time Warner failed to meet.

Upon our review of the matter, we conclude that Time Warner failed to maintain required EEO files at its locations in Torrance and Garden Grove, California, in willful and repeated violation of Section 76.1702(a) of the Rules. But for the expiration of the one-year statute of limitations imposed by Section 503(b)(1) of the Communications Act of 1934, as amended,⁸ we would propose a forfeiture against Time Warner for its violations here. Because the violations occurred on September 16, 2005, more than 12 months ago, we cannot do so. Section 503, however, does not prohibit us from determining that Time Warner so violated Section 76.1702(a) of the Rules, and we admonish the company for its failure to have made its EEO files available at those locations. Particularly in light of its past violations of the cable public file rules,⁹ we direct Time Warner to educate all relevant personnel as to the requirements of Section 76.1702(a) and to bring all of its systems, including those referenced in Mr. Shelton’s complaint, into compliance with that Rule.

⁵ See, Letter to Estella Salvatierra, Esquire, EEO Staff, Policy Division, Media Bureau, Federal Communications Commission from Roger Keating, President, Los Angeles Division, Time Warner Cable, Declaration of Gregory S. Drake (May 16, 2000); Letters to Estella Salvatierra, Esquire, EEO Staff, Policy Division, Media Bureau, Federal Communications Commission from Gregory S. Drake, Esquire, Time Warner Cable (July 19 and 20, 2006).

⁶ 47 C.F.R. § 76.1702(a) (“The file shall be maintained at the central office and at every location with six or more full-time employees.”).

⁷ 47 C.F.R. § 76.1700.

⁸ 47 U.S.C. § 503(b)(1); see also, *Time Warner MO&O*, ¶¶ 9, 10.

⁹ See *Time Warner MO&O; Time Warner Entertainment-Advance/Newhouse Subsidiary, LLC d/b/a/Time Warner Cable*, Forfeiture Order, 19 FCC Rcd 10412 (EB 2004).

Accordingly, IT IS ORDERED, pursuant to Section 4(i) of the Communications Act of 1934, as amended,¹⁰ and Sections 0.283 and 1.113 of the Commission's Rules,¹¹ that Time Warner Cable is hereby ADMONISHED for its willful and repeated violation of Section 76.1702(a) of the Commission's Rules. IT IS FURTHER ORDERED that, to the extent noted above, the October 4, 2005, complaint filed by James Shelton against Time Warner Cable IS GRANTED.

Sincerely,

Monica Shah Desai
Chief, Media Bureau

¹⁰ See 47 U.S.C. §154(i).

¹¹ See 47 C.F.R. §§ 0.283, 1.113.