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

In the Matter of	)	
	)	
Meredith Corporation	)	Facility I.D. No. 41230
Licensee of Station KCTV(TV)	)	NAL/Acct. No. 0841420013
Kansas City, Missouri	)	FRN: 0005877550

NOTICE OF APPARENT
LIABILITY FOR FORFEITURE

Adopted: November 7, 2007 **Released: November 9, 2007**

By the Chief, Video Division, Media Bureau:

I. INTRODUCTION

1. In this *Notice of Apparent Liability for Forfeiture ("NAL")* issued pursuant to Section 503(b) of the Communications Act of 1934, as amended (the "Act"), and Section 1.80 of the Commission's Rules (the "Rules"),[1] by the Commission, by the Chief, Video Division, Media Bureau pursuant to authority delegated under Section 0.283 of the Rules,[2] we find that Meredith Corporation (the "Licensee"), licensee of Station KCTV(TV), Kansas City, Missouri (the "Station"), apparently willfully and repeatedly violated Sections 73.3526(e)(11)(i) and 73.3526(e)(11)(ii) of the Rules, by failing to place in the Station's public inspection file all required TV issues/programs lists and records concerning its compliance with the children's programming commercial limits.[3] Based upon our review of the facts and circumstances before us, we conclude that the Licensee is apparently liable for a monetary forfeiture in the amount of ten thousand dollars ($10,000).

II. BACKGROUND

2. Section 73.3526 of the Rules requires each commercial broadcast licensee to maintain a public inspection file containing specific types of information related to station operations.[4] Subsection 73.3526(e)(11)(i) provides that a TV issues/programs list is to be placed in a commercial TV broadcast station's public inspection file each calendar quarter. In addition, 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] These subsections of 73.3526 require licensees to place such records concerning its compliance with the commercial limits in the 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

[1] 47 U.S.C. § 503(b); 47 C.F.R. § 1.80.

[2] *See* 47 C.F.R. § 0.283.

[3] *See* 47 C.F.R. §§ 73.3526(e)(11)(i) and 73.3526(e)(11)(ii).

[4] *See* 47 C.F.R. § 73.3526.

[5] 47 C.F.R. § 73.670. This rule limits the amount of commercial matter that a commercial television station may air during children's programming to 10.5 minutes per hour on weekends and 12 minutes on weekdays.

undertaken by the licensee, excuse or nullify the licensee's rule violation.[6]

3. On September 30, 2005, the Licensee filed its license renewal application (FCC Form 303-S) for station KCTV(TV) (the "Application") (File No. BRCT-20050930ART). In response to Section IV, Question 3 of the Application, the Licensee 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 Commission's Rules. In Exhibit 17, the Licensee indicated that during preparation of the Application, it discovered that TV issues/programs lists for the period 1998 through 2002 had been erroneously removed from the Station's public inspection file. The Licensee claimed that in August 2005, it located copies of all missing TV issues/programs lists in a non-public file and returned them to the Station's public inspection file. Further, the Licensee reported that the Station's documentation of compliance with the commercial limits in children's programming for the third quarter of 1998 and the first three quarters of 2000 were missing from the public file. Upon discovery of this omission, the Licensee claimed, it immediately reviewed its records to ensure the Station's compliance with the commercial limits during those quarters and placed the required records in the public file.

III. DISCUSSION

4. The Licensee's failure to retain in its Station KCTV(TV) public inspection file all required TV issues/programs lists and records concerning compliance with the children's programming commercial limits constitutes a willful and repeated violation of Sections 73.3526(e)(11)(i) and 73.3526(e)(11)(ii). This *NAL* is issued pursuant to Section 503(b)(1)(B) of the Act. Under that provision, any person who is determined by the Commission to have willfully or repeatedly failed to comply with any provision of the Act or any rule, regulation, or order issued by the Commission shall be liable to the United States for a forfeiture penalty.[7] Section 312(f)(1) of the Act defines willful as "the conscious and deliberate commission or omission of [any] act, irrespective of any intent to violate" the law.[8] The legislative history to Section 312(f)(1) of the Act clarifies that this definition of willful applies to both Sections 312 and 503(b) of the Act,[9] and the Commission has so interpreted the term in the Section 503(b) context.[10] 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."[11]

5. The Commission's *Forfeiture Policy Statement* and Section 1.80(b)(4) of the Rules establish a base forfeiture amount of $10,000 for violation of Section 73.3526.[12] In determining the appropriate forfeiture amount, we may adjust the base amount upward or downward by considering 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

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[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)(1)(B); *see also* 47 C.F.R. § 1.80(a)(1).

[8] 47 U.S.C. § 312(f)(1).

[9] *See* H.R. Rep. No. 97-765, 97th Cong. 2d Sess. 51 (1982).

[10] *See Southern California Broadcasting Co.*, Memorandum Opinion and Order, 6 FCC Rcd 4387, 4388 (1991).

[11] 47 U.S.C. § 312(f)(2).

[12] *See Forfeiture Policy Statement and Amendment of Section 1.80(b) of the Rules to Incorporate the Forfeiture Guidelines*, Report and Order, 12 FCC Rcd 17087, 17113-15 (1997) *("Forfeiture Policy Statement"), recon. denied*, 15 FCC Rcd 303 (1999); 47 C.F.R. § 1.80(b)(4), note to paragraph (b)(4), Section I.

offenses, ability to pay, and such other matters as justice may require."[13]

6. In this case, the Licensee acknowledged that the Station's TV issues/programs lists and records concerning compliance with commercial limits on children's programming for several quarters were missing from the public inspection file. Moreover, it appears that the Licensee did not discover these deficiencies until it prepared the Application. Accordingly, we find that the Licensee is apparently liable for a forfeiture in the amount of $10,000 for its apparent willful and repeated violations of Sections 73.3526(e)(11)(i) and 73.3526(e)(11)(ii).

IV. ORDERING CLAUSES

7. Accordingly, IT IS ORDERED, pursuant to Section 503(b) of the Communications Act of 1934, as amended, and Section 1.80 of the Commission's Rules, that Meredith Corporation is hereby NOTIFIED of its APPARENT LIABILITY FOR FORFEITURE in the amount of ten thousand dollars ($10,000) for its apparent willful and repeated violations of Sections 73.3526(e)(11)(i) and 73.3526(e)(11)(ii) of the Commission's Rules.

8. IT IS FURTHER ORDERED, pursuant to Section 1.80 of the Commission's Rules, that, within thirty (30) days of the release date of this *NAL,* Meredith Corporation SHALL PAY the full amount of the proposed forfeiture or SHALL FILE a written statement seeking reduction or cancellation of the proposed forfeiture.

9. Payment of the proposed 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, Pennsylvania 15251-8340. Payment by overnight mail may be sent to Mellon Bank/LB 358340, 500 Ross Street, Room 1540670, Pittsburgh, Pennsylvania 15251. Payment by wire transfer may be made to ABA Number 043000261, receiving bank Mellon Bank, and account number 911-6229.

10. 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.

11. 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.

12. Requests for full payment of the forfeiture proposed in this *NAL* under the installment plan should be sent to: Associate Managing Director- Financial Operations, 445 12th Street, S.W., Room 1-A625, Washington, D.C. 20554.[14]

13. IT IS FURTHER ORDERED that copies of this *NAL* shall be sent, by First Class and Certified Mail, Return Receipt Requested, to Meredith Corporation, Television Station KCTV(TV), 1716 Locust Street, Des Moines, Iowa, 50309-3203, and to its counsel, Kevin P. Latek, Esquire, Dow, Lohnes

[13] 47 U.S.C. § 503(b)(2)(D); *see also Forfeiture Policy Statement,* 12 FCC Rcd at 17100-01; 47 C.F.R. § 1.80(b)(4); 47 C.F.R. § 1.80(b)(4), note to paragraph (b)(4), Section II.

[14] *See* 47 C.F.R. § 1.1914.

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FEDERAL COMMUNICATIONS COMMISSION

Barbara A. Kreisman
Chief, Video Division
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