



PUBLIC NOTICE

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FCC ENFORCEMENT ADVISORY

ENFORCEMENT BUREAU REPORTS ON CABLE AND SATELLITE COMPLIANCE WITH CHILDREN'S PROGRAMMING REQUIREMENTS UNDER THE CHILDREN'S TELEVISION ACT AND ASSOCIATED PUBLIC FILE RULES

In this Enforcement Advisory, the Enforcement Bureau (Bureau) reports on its review of cable and satellite compliance to ensure that programming targeted to children meets the requirements of the Children's Television Act of 1990 (CTA).¹ Compliance with these requirements is important in light of the significant role that television plays in the lives of American children.² Although we found that cable and satellite providers generally complied with the limits on commercial material during children's programming, several providers failed to update their public inspection files in a timely manner. With that in mind, this Advisory reminds cable and satellite operators of their obligations associated with the transmission of children's programming.

In passing the CTA, Congress found that special safeguards are appropriate to protect children from over-commercialization on television.³ To provide such safeguards, the CTA and the FCC's rules limit the amount of commercial matter in children's programming and require the maintenance of records documenting compliance. These rules, covering programming targeted to children ages 12 years old and younger, apply to television broadcasters,⁴ cable operators,⁵ and direct broadcast satellite systems.⁶ In particular, commercial matter transmitted during children's programming must not exceed 10.5 minutes per hour on weekends and 12 minutes per hour on weekdays. Additionally, broadcasters, cable operators,

¹ Children's Television Act of 1990, Pub. L. No. 101-437, 104 Stat. 996-1000, *codified at* 47 U.S.C. §§ 303a, 303b, 394 (*Children's Television Act of 1990*).

² See *Children's Television Obligations of Digital Television Broadcasters*, Report and Order and Further Notice of Proposed Rule Making, 19 FCC Rcd 22943, 22945, para. 3 (2004). See also U.S. General Accounting Office, *Children's Television Act: FCC Could Improve Efforts to Oversee Enforcement and Provide Public Information 1* (July 14, 2011). The report reiterated the importance of the CTA and the associated rules.

³ See *Children's Television Act of 1990*, *supra* note 1.

⁴ See 47 C.F.R. §§ 73.670, 73.3526(e)(11)(ii).

⁵ See 47 C.F.R. §§ 76.225, 76.1703.

⁶ See 47 C.F.R. § 25.701(e).

and satellite systems that air children's programming must maintain records sufficient to verify their compliance with the advertising restrictions and make such records available to the public.⁷

As part of our regular activities to monitor compliance with children's programming rules applicable to cable and satellite operators, last year the Bureau initiated a review of children's programming on cable and satellite systems in communities across the country. Bureau field agents and headquarters employees recorded and reviewed programming from several children's programming networks on numerous cable and satellite systems, focusing on programming aimed at children 12 and under. The programming was analyzed for compliance with commercial limits as well as the prohibitions on host selling,⁸ program-length commercials, and the display of commercial website Internet addresses.⁹ Bureau field agents also inspected the public files of cable and satellite systems across the country to assess compliance with relevant recordkeeping requirements.

The Bureau's investigation and analysis found that cable and satellite compliance with the CTA requirements was generally good. The Bureau's review of children's programming material revealed no violations of the limits on commercial matter. In addition, our investigation and review of operators' public files found that the vast majority maintained documents to sufficiently verify compliance with the rules and made these files available to the public.

Despite widespread compliance, however, we found some apparent violations of the public file requirements. Over one-third of the public file inspections revealed either missing or late-filed Children's Programming Reports. We remind cable and satellite operators that these reports must be placed in the public inspection file within 10 days of the end of each quarter.¹⁰

To address these apparent violations of the Public File rules, we are releasing the following Notice of Apparent Liability (NAL) and Notices of Violation (NOVs) concurrent with this Enforcement Advisory:

[CCO SOCAL I, LLC, Gilroy, California; Notice of Violation, EB-11-SF-0117](#)
[Cebridge Acquisition, LP, Bryan, Texas; Notice of Violation, EB-11-HU-0053](#)
[Charter Communications, Inc., Athens, Georgia; Notice of Violation, EB-11-AT-0087](#)
[Charter Communications, Inc., Fort Worth, Texas; Notice of Violation, EB-11-DL-0061](#)
[Comcast of Howard County, Inc., Elkridge, Maryland; Notice of Violation, EB-11-CF-0093](#)
[Comcast of Illinois XI LLC, Mount Prospect, Illinois; Notice of Violation, EB-11-CG-0248](#)
[Cox Communications Louisiana LLC, Baton Rouge, Louisiana; Notice of Violation, EB-11-OR-0074](#)
[DirecTV, Inc., El Segundo, California; Notice of Violation, EB-11-LA-0176](#)
[DISH Network, LLC, Englewood, Colorado; Notice of Violation, EB-11-DV-0201](#)

⁷ See 47 C.F.R. §§ 73.3526(e)(11)(ii), 76.1703, 25.701(e)(3). See also *Policies and Rules Concerning Children's Television Programming*, Report and Order, 6 FCC Rcd 2111, 2113, para. 13 (1991), *recons. granted in part*, 6 FCC Rcd 5093, 5098, para. 28 (1991); *Implementation of Section 25 of the Cable Television Consumer Protection and Competition Act of 1992*, Second Order on Reconsideration of First Report and Order, 19 FCC Rcd 5647, 5668, para. 48 (2004) (*2004 Second Order*).

⁸ The Commission's "host-selling policy" prohibits the use of program talent or other identifiable program character to deliver commercials during or adjacent to children's programming featuring that character.

⁹ See 47 C.F.R. §§ 76.225, 25.701(e).

¹⁰ See *Policies and Rules Concerning Children's Television Programming*, Memorandum Opinion and Order, 6 FCC Rcd 5093, 5097, para. 23 (1991) (*1991 MO&O*); *2004 Second Order*, 19 FCC Rcd at 5668, para. 48. See also 47 C.F.R. § 1.80(b)(4).

Time Warner Entertainment, Advance/Newhouse Partnership, Kansas City, Missouri; Notice of Apparent Liability for Forfeiture and Order, EB-11-KC-0058
Verizon Florida LLC, Hillsborough County, Florida; Notice of Violation, EB-11-TP-0051

The NAL finds Time Warner Entertainment – Advance/Newhouse Partnership (Time Warner) apparently liable for a forfeiture in the amount of twenty five thousand dollars (\$25,000) for violations of Sections 76.1703 and 76.1704 of the Commission’s rules.¹¹ The Enforcement Bureau’s Kansas City field agents inspected files at Time Warner’s offices on July 18, 2011. The files were missing required children’s programming records for five quarters as well as proof of performance tests for 2008 and 2009.¹²

The ten NOV’s listed above are being issued to the various cable and satellite companies for failing to file their children’s programming material in a timely manner. We caution these companies that future violations could result in more severe sanctions, including monetary forfeitures.

We also take this opportunity to remind all cable and satellite operators of their ongoing obligations under the CTA and the Commission’s rules. The Bureau will continue to monitor compliance with these rules consistent with their importance in safeguarding children.¹³

In particular, we remind cable and satellite operators to maintain records sufficient to verify their compliance with the advertising restrictions and to make such records available to the public.¹⁴ Cable and satellite operators are specifically required to update these records in the system’s public file no later than the tenth day of the quarter following the quarter in which the covered programming aired, and they must keep the material in the public file for at least one year.¹⁵

Issued by: Chief, Enforcement Bureau

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Need More Information? For additional information regarding this Enforcement Advisory, please contact Guy Benson of the Enforcement Bureau at 202-418-2946 or at Guy.Benson@fcc.gov. Media inquiries should be directed to Neil Grace at (202) 418-0506 or Neil.Grace@fcc.gov.

¹¹ 47 C.F.R. §§ 76.1703, 76.1704.

¹² Pursuant to Section 76.601 of the Commission’s Rules (47 C.F.R. § 76.601), cable system operators must conduct periodic tests to determine the extent to which their systems comply with technical standards. Section 76.1704 of the Commission’s Rules states: “[T]he proof of performance tests required by § 76.601 shall be maintained on file at the operator’s local business office for at least five years. The test data shall be made available for inspection by the Commission or the local franchiser, upon request.” 47 C.F.R. § 76.1704.

¹³ See, e.g., *Children’s Television Obligations of Digital Television Broadcasters*, Report and Order and Further Notice of Proposed Rule Making, 19 FCC Rcd 22943, 22945, para. 5 (2004); *Children’s Television Obligations of Digital Television Broadcasters*, Second Order on Reconsideration and Second Report and Order, 21 FCC Rcd 11065, 11066, para. 5 (2006). The Commission also monitors compliance by television broadcast licensees. See, e.g., *WSOC Television, Inc.*, Notice of Apparent Liability for Forfeiture, 25 FCC Rcd 6124 (2010); *WCVB Hearst Television, Inc.*, Notice of Apparent Liability for Forfeiture, 25 FCC Rcd 6128 (2010); *Media General Communications Holdings, LLC*, Notice of Apparent Liability for Forfeiture, 25 FCC Rcd 6132 (2010).

¹⁴ See 47 C.F.R. §§ 76.1703, 25.701(e)(3).

¹⁵ See *1991 MO&O*, 6 FCC Rcd at 5097, para. 23; *2004 Second Order*, 19 FCC Rcd at 5668, para. 48. The retention period must be sufficient to cover the limitations specified in 47 U.S.C. § 503(b)(6)(B). See also 47 C.F.R. § 1.80(b)(4) (forfeitures).

For additional information concerning the Children's Television Act rules, please contact Kim Matthews at (202) 418-2154 or at Kim.Matthews@fcc.gov.

To request materials in accessible formats for people with disabilities (Braille, large print, electronic files, audio format), send an email to fcc504@fcc.gov or call the Consumer & Governmental Affairs Bureau at 202-418-0530 (voice), 202-418-0432 (TTY). You may also contact the Enforcement Bureau on its TTY line at 202-418-1148 for further information about this Enforcement Advisory, or the Media Bureau on its TTY line at (202) 418-0432 or 1 (888) 835-5322 for further information about the Children's Programming rules.

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