

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

In the Matter of)	
)	
Televisa, S.A. de C.V.)	File Nos.: EB-FIELDWR-13-00009879
)	EB-FIELDWR-13-00009881
Mexico City, Mexico)	NAL/Acct. No.: 201432900005
)	FRN: 0016686628

NOTICE OF APPARENT LIABILITY FOR FORFEITURE

Adopted: May 14, 2014

Released: May 15, 2014

By the District Director, Los Angeles Office, Western Region, Enforcement Bureau:

I. INTRODUCTION

1. We propose a penalty of \$25,000 against Televisa, S.A. de C.V. (Televisa) for apparently operating its satellite news gathering vehicles on unauthorized frequencies while telecasting sports programming internationally. Televisa received a warning advising it to stop operating on channels for which it did not hold a valid station authorization. Despite this warning, FCC agents found that the same violation apparently occurred during Televisa's operations at a separate venue four days later. Televisa did not dispute the violations and conceded that it transmitted from its satellite news gathering vehicles without Commission authorization on two occasions within the same week. The repeated violation after receiving a warning and Televisa's status as a highly profitable company warrants a significant penalty.

2. In this Notice of Apparent Liability for Forfeiture (NAL), we find that Televisa, apparently willfully and repeatedly violated Section 301 of the Communications Act of 1934, as amended (Act),¹ and Section 25.102(a) of the Commission's Rules (Rules)² for operating a temporary C-Band Satellite News Gathering (SNG) station without Commission authorization.

II. BACKGROUND

3. On July 7, 2013, an agent from the Enforcement Bureau's Los Angeles Office (Los Angeles Office) conducted an on-scene inspection of a C-Band earth-to-space uplink (5.925 to 6.425 GHz) station operating from a Televisa SNG vehicle temporarily located at the Rose Bowl in Pasadena, California. The inspection and review of Commission databases revealed that Televisa was operating the temporary C-Band station without Commission authorization. The agent advised the Televisa SNG operator that he would need a Commission authorization when operating in the United States.³ The Los Angeles agent issued an on-scene Notice of Unlicensed Operation (NOUO) to the Televisa SNG operator.⁴ A NOUO was also mailed to Televisa and its counsel.⁵ On July 22, 2013, Televisa's counsel responded to that NOUO and stated that "Televisa does not dispute your statements. Through inadvertence, a license

¹ 47 U.S.C. § 301.

² 47 C.F.R. § 25.102(a).

³ The Televisa SNG operator stated they did not have a Commission authorization, only an authorization from the Mexican national telecommunications authority, Comisión Federal de Telecomunicaciones.

⁴ *Televisa*, On-Scene Notice of Unlicensed Operation, issued Jul. 7, 2013 (on file in EB-FIELDWR-13-00009879).

⁵ *Televisa*, Notice of Unlicensed Operation, issued Jul. 11, 2013 (on file in EB-FIELDWR-13-00009879).

application to the FCC for TVSA Mob-1, along with a Request for Special Temporary Authority (STA), was not submitted until this past Monday, July 15, 2013.⁶

4. On July 11, 2013, an agent from the Enforcement Bureau's Seattle Office (Seattle Office) conducted an inspection of a C-Band earth-to-space uplink station operating from a second Televisa SNG vehicle temporarily located at CenturyLink Field in Seattle, Washington. During the course of this inspection, the Televisa SNG operator stated that the SNG vehicle transmitted in the C-band during the event, but could not produce a Commission license authorizing operation in the C-Band. The Seattle agent issued an on-scene NOUO⁷ to the Televisa SNG operator. On July 18, 2013, the Seattle Office mailed a NOUO to Televisa and its counsel.⁸ On July 29, 2013, Televisa responded to the NOUO and stated, "Televisa does not dispute your statements. Through inadvertence, a license application to the FCC for TVSA Mob-2 was not submitted prior to use but Televisa is working diligently to prepare a suitable FCC Form 312 and request for Special Temporary Authority for this facility."⁹ Televisa's application for a license for a temporary fixed earth station facility in the C-Band was granted on September 9, 2013, with callsign E130127.¹⁰

III. DISCUSSION

5. 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 or repeatedly 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.¹¹ 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.¹² 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,¹³ and the Commission has so interpreted the term in the Section 503(b) context.¹⁴ The Commission may also assess a forfeiture for violations that are merely repeated, and not willful.¹⁵ The term "repeated" means the commission or omission of such act more than once or for more than one day.¹⁶

⁶ See Response to Notice of Unlicensed Operation by Televisa S.A. de C.V. at 1 (Jul. 12, 2013) (on file in EB-FIELDWR-13-00009815).

⁷ Televisa, On-Scene Notice of Unlicensed Operation, issued Jul. 11, 2013 (on file in EB-FIELDWR-13-00009881).

⁸ Televisa, Notice of Unlicensed Operation, issued Jul. 18, 2013 (on file in EB-FIELDWR-13-00009881).

⁹ See Response to Notice of Unlicensed Operation by Televisa S.A. de C.V. at 1 (Jul. 12, 2013) (on file in EB-FIELDWR-13-00009881).

¹⁰ See IBFS File No. SES-LIC-20130715-00587, granted Sep. 9, 2013.

¹¹ 47 U.S.C. § 503(b).

¹² 47 U.S.C. § 312(f)(1).

¹³ H.R. Rep. No. 97-765, 97th Cong. 2d Sess. 51 (1982) ("This provision [inserted in Section 312] defines the terms 'willful' and 'repeated' for purposes of section 312, and for any other relevant section of the act (e.g., Section 503) As defined[,] . . . 'willful' means that the licensee knew that he was doing the act in question, regardless of whether there was an intent to violate the law. 'Repeated' means more than once, or where the act is continuous, for more than one day. Whether an act is considered to be 'continuous' would depend upon the circumstances in each case. The definitions are intended primarily to clarify the language in Sections 312 and 503, and are consistent with the Commission's application of those terms").

¹⁴ See, e.g., *Southern California Broadcasting Co.*, Memorandum Opinion and Order, 6 FCC Rcd 4387, 4388, para. 5 (1991), *recons. denied*, 7 FCC Rcd 3454 (1992).

¹⁵ See, e.g., *Callais Cablevision, Inc.*, Notice of Apparent Liability for Monetary Forfeiture, 16 FCC Rcd 1359, 1362, para. 10 (2001) (*Callais Cablevision, Inc.*) (proposing a forfeiture for, *inter alia*, a cable television operator's

(continued....)

A. Failure to Obtain an FCC authorization

6. Section 301 of the Act prohibits the use or operation of any apparatus for the transmission of energy or communications or signals by radio, except under and in accordance with the Act and with a license granted under the provisions of the Act.¹⁷ Section 25.102(a) of the Rules similarly prohibits the use or operation of any apparatus for the transmission of energy or communications or signals by space or earth stations without Commission authorization.¹⁸ On July 7, 2013, an inspection by a Los Angeles Office agent revealed that Televisa was transmitting in the C-Band on frequencies not authorized for its use by the Commission. Televisa received a NOUO from the Los Angeles agent warning it against continuing to operate on channels for which it did not hold a valid station authorization. On July 11, 2013, an inspection by a Seattle Office agent revealed that Televisa was once again transmitting in the C-Band without a valid station authorization. Televisa received a second NOUO warning against continued transmission in the C-Band without a proper Commission license. Televisa's violation was willful and, because the violation occurred on more than one day, it was repeated. Consequently, based on the evidence before us, we find that Televisa apparently willfully and repeatedly violated Section 301 of the Act and Section 25.102(a) of the Rules by operating an earth station in the fixed satellite service without a Commission license.

B. Proposed Forfeiture

7. Pursuant to the Commission's *Forfeiture Policy Statement* and Section 1.80 of the Rules, the base forfeiture amount for operation of an earth station without an instrument of authorization is \$10,000.¹⁹ In assessing the monetary forfeiture amount, we must also take into account the statutory factors set forth in Section 503(b)(2)(E) of the Act, which include the nature, circumstances, extent, and gravity of the violations, and with respect to the violator, the degree of culpability, any history of prior offenses, ability to pay, and other such matters as justice may require.²⁰ Televisa concedes that it transmitted in the C-Band from its SNG vehicles without Commission authorization on two occasions within the same week. We therefore conclude that Televisa is apparently liable for a total base forfeiture of \$20,000. In addition, Televisa is a multi-billion dollar enterprise.²¹ As the Commission made clear in the *Forfeiture Policy Statement*, highly-profitable companies such as Televisa should expect the assessment of forfeitures higher than those reflected in the base amounts to ensure that forfeiture liability is a deterrent and not simply a cost of doing business.²² In the final analysis and based on all the factors and evidence, including the repeated

(...continued from previous page)
repeated signal leakage).

¹⁶ Section 312(f)(2) of the Act, 47 U.S.C. § 312(f)(2), which also applies to violations for which forfeitures are assessed under Section 503(b) 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.” *See Callais Cablevision, Inc.*, 16 FCC Rcd at 1362, para. 9.

¹⁷ 47 U.S.C. § 301.

¹⁸ 47 C.F.R. § 25.102(a).

¹⁹ *The Commission's Forfeiture Policy Statement and Amendment of Section 1.80 of the Rules to Incorporate the Forfeiture Guidelines*, Report and Order, 12 FCC Rcd 17087 (1997) (*Forfeiture Policy Statement*), *recons. denied*, 15 FCC Rcd 303 (1999); 47 C.F.R. § 1.80.

²⁰ 47 U.S.C. § 503(b)(2)(E).

²¹ Televisa reported operating revenues of approximately \$5.3 billion for 2012. *See* <http://finance.yahoo.com/q/qs?s=TV+Income+Statement&annual> (last visited Jan. 14, 2014).

²² *Forfeiture Policy Statement*, 12 FCC Rcd at 17099–100, paras. 23–24; *see, e.g., Google Inc.*, Notice of Apparent Liability for Forfeiture, 27 FCC Rcd 4012 (Enf. Bur. 2012) (upwardly adjusting the base forfeiture due to the

(continued....)

nature of the violations and Televisa's ability to pay a forfeiture, we conclude that an upward adjustment of \$5,000 is appropriate. Applying the *Forfeiture Policy Statement*, Section 1.80 of the Rules, and the statutory factors to the instant case, we conclude that Televisa is apparently liable for a total forfeiture in the amount of twenty-five thousand dollars (\$25,000) for willfully and repeatedly operating temporary fixed earth C-Band SNG stations without Commission authorization.

IV. ORDERING CLAUSES

8. Accordingly, **IT IS ORDERED** that, pursuant to Section 503(b) of the Communications Act of 1934, as amended, and Sections 0.111, 0.204, 0.311, 0.314, and 1.80 of the Commission's rules, Televisa, S.A. de C.V. is hereby **NOTIFIED** of this **APPARENT LIABILITY FOR A FORFEITURE** in the amount of twenty-five thousand dollars (\$25,000) for violations of Section 301 of the Communications Act of 1934, as amended, and 25.102(a) of the Commission's rules.²³

9. **IT IS FURTHER ORDERED** that, pursuant to Section 1.80 of the Commission's rules, within thirty (30) calendar days of the release date of this Notice of Apparent Liability for Forfeiture, Televisa, S.A. de C.V. **SHALL PAY** the full amount of the proposed forfeiture or **SHALL FILE** a written statement seeking reduction or cancellation of the proposed forfeiture.

10. Payment of the forfeiture must be made by check or similar instrument, wire transfer, or credit card, and must include the NAL/Account Number and FRN referenced above. Televisa, S.A. de C.V. shall also send electronic notification on the date said payment is made to WR-Response@fcc.gov. Regardless of the form of payment, a completed FCC Form 159 (Remittance Advice) must be submitted.²⁴ When completing the FCC Form 159, enter the Account Number in block number 23A (call sign/other ID) and enter the letters "FORF" in block number 24A (payment type code). Below are additional instructions you should follow based on the form of payment you select:

- Payment by check or money order must be made payable to the order of the Federal Communications Commission. Such payments (along with the completed Form 159) must be mailed to Federal Communications Commission, P.O. Box 979088, St. Louis, MO 63197-9000, or sent via overnight mail to U.S. Bank – Government Lockbox #979088, SL-MO-C2-GL, 1005 Convention Plaza, St. Louis, MO 63101.
- Payment by wire transfer must be made to ABA Number 021030004, receiving bank TREAS/NYC, and Account Number 27000001. To complete the wire transfer and ensure appropriate crediting of the wired funds, a completed Form 159 must be faxed to U.S. Bank at (314) 418-4232 on the same business day the wire transfer is initiated.
- Payment by credit card must be made by providing the required credit card information on FCC Form 159 and signing and dating the Form 159 to authorize the credit card payment. The completed Form 159 must then be mailed to Federal Communications Commission, P.O. Box 979088, St. Louis, MO 63197-9000, or sent via overnight mail to U.S. Bank – Government Lockbox #979088, SL-MO-C2-GL, 1005 Convention Plaza, St. Louis, MO 63101.

(...continued from previous page)

deliberate nature of the violation and the company's gross revenues); *America Movil, S.A.B. de C.V., Parent of Puerto Rico Telephone Company, Inc.*, Notice of Apparent Liability for Forfeiture, 26 FCC Rcd 8672 (Enf. Bur. 2011) (doubling the base forfeiture due to the company's size and gross revenues); *Fox Television Stations Inc.*, Notice of Apparent Liability for Forfeiture, 25 FCC Rcd 7074 (Enf. Bur. 2010) (upwardly adjusting the base forfeiture based on the egregiousness of the violation and the company's substantial revenues).

²³ 47 U.S.C. §§ 301, 503(b); 47 C.F.R. §§ 0.111, 0.204, 0.311, 0.314, 1.80, 25.102(a).

²⁴ An FCC Form 159 and detailed instructions for completing the form may be obtained at <http://www.fcc.gov/Forms/Form159/159.pdf>.

11. Any request for making full payment over time under an installment plan should be sent to: Chief Financial Officer—Financial Operations, Federal Communications Commission, 445 12th Street, S.W., Room 1-A625, Washington, D.C. 20554.²⁵ If you have questions regarding payment procedures, please contact the Financial Operations Group Help Desk by phone, 1-877-480-3201, or by e-mail, ARINQUIRIES@fcc.gov.

12. The written statement seeking reduction or cancellation of the proposed forfeiture, if any, must include a detailed factual statement supported by appropriate documentation and affidavits pursuant to Sections 1.16 and 1.80(f)(3) of the Commission's rules.²⁶ Mail the written statement to Federal Communications Commission, Enforcement Bureau, Western Region, Los Angeles Office, 18000 Studebaker Rd., Room # 660, Cerritos, California 90703, and include the NAL/Acct. No. referenced in the caption. Televisa, S.A. de C.V. also shall e-mail the written response to WR-Response@fcc.gov.

13. The Commission will not consider reducing or canceling a forfeiture in response to a claim of inability to pay unless the petitioner submits: (1) federal tax returns for the most recent three-year period; (2) financial statements prepared according to generally accepted accounting principles (GAAP); or (3) some other reliable and objective documentation that accurately reflects the petitioner'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.

14. **IT IS FURTHER ORDERED** that a copy of this Notice of Apparent Liability for Forfeiture shall be sent by both Certified Mail, Return Receipt Requested, and First Class Mail to Televisa, S.A. de C.V. at its counsel's address of record, Norm Leventhal, Esquire, Holland & Knight, LLP, 800 17th Street, NW, Suite 1100, Washington, D.C. 20006.

FEDERAL COMMUNICATIONS COMMISSION

Charles A. Cooper
District Director
Los Angeles Office
Western Region
Enforcement Bureau

²⁵ See 47 C.F.R. § 1.1914.

²⁶ 47 C.F.R. §§ 1.16, 1.80(f)(3).