

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

In the Matter of)	
)	
Full Channel TV, Inc.)	NAL/Acct. No. MB-201241410026
Bristol, Rhode Island)	FRN: 0003596293
)	Employment Unit I.D. No. 12275

MEMORANDUM OPINION AND ORDER

Adopted: December 22, 2016

Released: December 22, 2016

By the Chief, Media Bureau:

1. We dismiss on procedural grounds a Petition for Reconsideration (Petition) filed on August 22, 2016 on behalf of Full Channel TV, Inc. (Full Channel), a multichannel video programming distributor (MVPD) and operator of Employment Unit 12275, Bristol, Rhode Island (the Full Channel Unit or Unit).¹ Full Channel seeks reconsideration of a Forfeiture Order issued by the Media Bureau on July 25, 2016 assessing a monetary forfeiture in the amount of eleven thousand dollars (\$11,000). The Forfeiture Order affirmed the Bureau's prior finding that Full Channel willfully and repeatedly violated the Commission's equal employment opportunity (EEO) rules by failing to comply with the Commission's recruitment, self-assessment, EEO public file report, and public inspection file requirements.² The Petition was erroneously filed under Section 1.429 of the Commission's rules, which governs petitions for reconsideration in notice and comment rulemaking proceedings and does not apply to enforcement proceedings. It therefore is procedurally defective.³

2. Were we to reach the merits of Full Channel's Petition, we would find no basis for reconsideration. Petitions for reconsideration are granted only in limited circumstances. Reconsideration is appropriate only if (i) the facts or arguments relate to events that occurred or circumstances that have changed since the last opportunity to present such matters, (ii) the petition relies on facts or arguments unknown to the petitioner until after petitioner's last opportunity to present them to the Commission and petitioner could not through the exercise of ordinary diligence have learned of the facts or arguments in question prior to such opportunity, (iii) the Commission or Bureau determines that consideration of the facts or arguments is required in the public interest, or (iv) the petitioner demonstrates a material error or omission in the underlying order.⁴ Full Channel's Petition satisfies none of these criteria. To substantiate its claim that it did not willfully and repeatedly violate the Commission's EEO rules, Full Channel expressly relies on evidence "from all of [its] briefs and responses submitted regarding this matter" prior

¹ Petition of Full Channel TV, Inc. for Reconsideration Pursuant to Title 47 Section 1.429 of the Code of Federal Regulations (filed Aug. 22, 2016).

² *Full Channel TV, Inc.*, Forfeiture Order, 31 FCC Rcd 7782 (MB July 2016) (Forfeiture Order).

³ 47 CFR §§ 1.429 and 1.106(a)(1). Full Channel also has filed a Motion to Stay the Forfeiture Order pending our consideration of the Petition. Motion of Full Channel TV, Inc. to Stay the Forfeiture Order (filed Aug. 22, 2016). In light of the dismissal of the Petition, we dismiss the Motion to Stay as moot.

⁴ 47 CFR § 1.106(c) (referencing 47 CFR § 1.106(b)(2)); *Board of Trustees, Davis & Elkins College*, Memorandum Opinion and Order, 26 FCC Rcd 15555, 15556 (MB 2011); *Ernesto Bustos*, Memorandum Opinion and Order, 29 FCC Rcd 7311, 7312 (MB 2014).

to the issuance of the Forfeiture Order.⁵ The Bureau already reviewed and considered these filings when it issued the Forfeiture Order. As the Commission's Rules make clear and we have stated repeatedly, a petition for reconsideration that only reiterates facts and arguments previously considered and rejected will be denied.⁶ Accordingly, Full Channel's claim that it did not violate Section 76.75(f) of the Commission's rules because it decided to "forgo print advertising in the local newspaper" is denied.⁷ The Bureau has previously considered and rejected Petitioner's argument.⁸

3. Full Channel further claims that the Forfeiture Order improperly concludes that the Unit "repeatedly violated" the EEO rules and that the Bureau failed to recognize that Full Channel never previously has been cited for violating these rules.⁹ In this vein, Full Channel argues that the Bureau erroneously considered the Unit's prior violation of a separate Commission rule in concluding that it had repeatedly violated the EEO rules. However, the Forfeiture Order did not consider any past FCC violations by Full Channel when citing the Unit for willfully and repeatedly violating the Commission's EEO rules. Rather, the Bureau found that Full Channel had "repeatedly" violated the EEO rules based on the findings in the Notice of Apparent Liability (NAL) for Forfeiture¹⁰ issued in this proceeding.¹¹ This finding is consistent with Section 312(f)(2) of the Act, which 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."¹²

4. Full Channel also argues that the amount of the forfeiture for its alleged recruiting violations improperly included three hires that occurred during the review period, even though only one of those hires was within the one-year statute of limitations governing Commission forfeitures.¹³ This argument also is without merit. As we clearly stated in the NAL, we considered the EEO violations

⁵ Petition at p. 2; *see also* Petition at p. 3 (again citing a past submission to the FCC).

⁶ *See* 47 CFR § 1.06(b)(2); *EZ Sacramento, Inc.*, Memorandum Opinion and Order, 15 FCC Rcd 18257 (Enf. Bur. 2000), citing *WWIZ, Inc.*, Memorandum Opinion and Order, 37 FCC 685, 686 (1964), *aff'd sub. nom. Lorain Journal Co. v. FCC*, 351 F.2d 824 (D.C. Cir. 1965), cert. denied, 383 U.S. 967 (1966); *South Seas Broadcasting, Inc.*, Memorandum Opinion and Order, 27 FCC Rcd 15049, 15050 (MB 2012) (Petition for reconsideration summarily denied to the extent it repeated arguments which were rejected in the forfeiture order); *Glen Iris Baptist School*, Memorandum Opinion and Order, 29 FCC Rcd 3219, 3220 (MB 2014) (Petition for reconsideration denied because it simply raised arguments that had been considered and rejected in the forfeiture order).

⁷ Petition at 4. *See also* 47 CFR § 76.75(f) (Section 76.75(f) requires that an MVPD distributor analyze its recruitment program on an ongoing basis to ensure that it is effective in achieving broad outreach, and address any problems found as a result of its analysis.).

⁸ *See* Forfeiture Order at 7785.

⁹ Petition at 3.

¹⁰ *Full Channel TV, Inc.*, Notice of Apparent Liability for Forfeiture, 27 FCC Rcd 3970 (MB 2012).

¹¹ *See* Forfeiture Order, 31 FCC Rcd at 7783. The Forfeiture Order cited Full Channel's past FCC violation only in determining whether the Unit qualified for a reduction of the forfeiture amount based on a history of overall compliance with the Commission's rules in general. *See* Forfeiture Order, 31 FCC Rcd at 7787. In accordance with section 1.80(b), the Commission may choose to apply a downward adjustment in consideration of an MVPD's history of overall compliance with the Commission's rules. 47 CFR § 1.80(b). Because Full Channel did not have such a history, we concluded that a reduction was not appropriate.

¹² 47 U.S.C. § 312(f)(2).

¹³ Petition at 2. Section 503(b)(6)(B) of the Act limits the time period within which the Commission can initiate a forfeiture proceeding against non-broadcast entities to only those violations that occur within one year prior to the issuance date of a notice of apparent liability for forfeiture. 47 U.S.C. § 503(b)(6)(B).

evidenced in the first two hires during the review period only for purposes of upward adjustments to the forfeiture issued with respect to the one hire that occurred within the one-year statutory timeframe.¹⁴ It is a well-settled principle of law that the Commission may properly consider prior offenses that occurred more than one year before a violation to establish the context for determining an appropriate forfeiture amount.¹⁵ Therefore, the Bureau may consider prior offenses that would be barred by the one-year statute of limitations in considering whether an adjustment of the forfeiture amount is warranted.¹⁶

5. Accordingly, **IT IS ORDERED** that pursuant to Section 1.106 of the Commission's rules, the Petition for Reconsideration filed by Full Channel TV, Inc. is hereby DISMISSED.

6. **IT IS FURTHER ORDERED** that the Motion to Stay the Forfeiture Order filed by Full Channel TV, Inc. is hereby DISMISSED as moot.

7. **IT IS FURTHER ORDERED**, 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, that Full Channel TV, Inc. is **LIABLE FOR A MONETARY FORFEITURE** in the amount of eleven thousand dollars (\$11,000) for violations of Sections 76.75(b)(1)(i), 76.1702(a), 76.1702(b), and 76.75(f) of the Commission's rules.

8. Payment of the forfeiture shall be made in the manner provided for in Section 1.80 of the rules within thirty (30) calendar days after the release date of this Memorandum Opinion and Order. If the forfeiture is not paid within the period specified, the case may be referred to the U.S. Department of Justice for enforcement of the forfeiture pursuant to Section 504(a) of the Act. Full Channel TV, Inc. shall send electronic notification on the date said payment is made to Lewis Pulley, Assistant Chief, Policy Division, Media Bureau, Federal Communications Commission, at Lewis.Pulley@fcc.gov.

9. The payment must be made by check or similar instrument, wire transfer, or credit card, and must include the NAL/Account number and FRN referenced above. Regardless of the form of payment, a completed FCC Form 159 (Remittance Advice) must be submitted.¹⁷ 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.

¹⁴ See NAL, 27 FCC Rcd at 3973.

¹⁵ *InPhonic, Inc.*, Forfeiture Order and Further Notice of Apparent Liability for Forfeiture, 22 FCC Rcd 8689, 8701 (2007); see also *Roadrunner Transportation, Inc.*, Forfeiture Order, 15 FCC Rcd 9669, 9671 (2000) (“While the Commission may not . . . find the Licensees liable for violations committed prior to [the NAL], it may lawfully look at facts arising before that date in determining an appropriate forfeiture amount.”).

¹⁶ *TV Max, Inc. and Broadcast Ventures Six*, Forfeiture Order, 29 FCC Rcd 8648, 8660 (2014) (“[E]ven though we cannot impose forfeitures for the significant and multiple prior offenses that occurred more than one year prior to the NAL . . . we may take note of these prior offenses in considering whether a reduction in the forfeiture amount is warranted.”)

¹⁷ FCC Form 159 and detailed instructions for completing the form may be obtained at <http://www.fcc.gov/Forms/Form159/159.pdf>.

- 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. Any requests for full payment 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. 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.

10. **IT IS FURTHER ORDERED** that copies of this Order shall be sent, by First Class and Certified Mail, Return Receipt Requested, to Linda Jane Maaia, President/CEO, Full Channel, Inc., 57 Everett Street, Warren, Rhode Island 02885 and William Maaia, Esq., 349 Warren Ave., East Providence, Rhode Island 02914.

FEDERAL COMMUNICATIONS COMMISSION

William T. Lake
Chief
Media Bureau