

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

In the Matter of)	
)	
WYDC, Inc.)	Facility ID No. 62219
Licensee of Station WYDC(TV))	NAL/Acct. No.: 201641420011
Corning, New York)	FRN: 0003778511

ORDER

Adopted: July 7, 2016

Released: July 7, 2016

By the Video Division, Media Bureau:

1. The Video Division issued a *Notice of Apparent Liability for Forfeiture* to WYDC, Inc. (Licensee), the licensee of Station WYDC(TV), Corning, New York (Station)¹ based on its apparent willful and/or repeated violations of Section 73.3526(e)(11)(iii) of the Commission's rules (Rules).² Based upon our review of the Licensee's Response and the facts and circumstances surrounding it, we hereby rescind the *NAL* and cancel the proposed forfeiture.

2. Pursuant to subsection 73.3526(e)(11)(iii) of the Rules, each commercial television licensee is required to prepare and place in its local public inspection file a Children's Television Programming Report (FCC Form 398) for each calendar quarter reflecting, *inter alia*, the efforts that it made during that quarter to serve the educational and informational needs of children.³ Licensees must file the reports with the Commission and place them in their public file by the tenth day of the succeeding calendar quarter. The *NAL* proposed a forfeiture of \$3,000 based on the Licensee's failure to file in a timely manner Children's Television Programming Reports for a period of three quarters.⁴

3. The Licensee filed a timely Response on June 8, 2016.⁵ The Response contends that upon further investigation the reports at issue were filed on-time. In support the Response included a signed declaration under penalty of perjury by the Program Director for the Station, whose job responsibilities include preparing and filing the Station's Children's Television Programming Reports, and filing confirmation numbers that are generated upon filing. This evidence supports the Licensee's claim that the Children's Television Programming Reports at issue were initially timely filed, but inadvertently overwritten and subsequently re-filed by the Licensee.⁶ Based on the information provided

¹ *WYDC, Inc., Licensee of WYDC(TV) Corning, New York*, Notice of Apparent Liability for Forfeiture, DA 16-523 (rel. May 11, 2016) (*NAL*).

² 47 C.F.R. § 73.3526(e)(11)(iii).

³ *Id.*

⁴ The *NAL* finds that the Licensee failed to file in a timely manner its reports for the first quarter of 2012, first quarter of 2013, and third quarter of 2013. In fact, as noted in the *NAL* the Licensee itself disclosed that it had failed to timely file these reports. *NAL* at 1-2, para. 3.

⁵ Response to Notice of Apparent Liability filed by WYDC, Inc. (Jun. 8, 2016) (Response).

⁶ Response at 2-4. The Licensee also notes that it has implemented safeguards to prevent reports from being accidentally overwritten. Response at 3.

in the Response, we find that the Children's Television Programming Reports at issue were filed in a timely manner and that rescission of the *NAL* and cancellation of the proposed forfeiture is appropriate.⁷

4. Accordingly, **IT IS ORDERED** that the Notice of Apparent Liability for Forfeiture issued to WYDC, Inc., is hereby **RESCINDED** and the proposed \$3,000 forfeiture is **CANCELLED**.

5. **IT IS FURTHER ORDERED** that copies of this *NAL* shall be sent by First Class and Certified Mail, Return Receipt Requested, to WYDC, Inc., 33 East Market Street, Corning, NY 14830 and to its counsel, Mark Denbo, Esq., Smithwick & Belendiuk, P.C., 5028 Wisconsin Avenue, NW, Suite 301, Washington, DC 20016.

FEDERAL COMMUNICATIONS COMMISSION

Barbara A. Kreisman
Chief, Video Division
Media Bureau

⁷ In light of our fact based finding that the WYDC did not violate Section 73.3526(e)(11)(iii) of the Rules, 47 C.F.R., § 73.3526(e)(11)(iii), we need not address WYDC's alternative legal argument that to the extent it did commit a "technical violation" of the Rules its actions were not "willful and/or repeated." *Id.*, at 6-7.