Before the
Federal Communications Commission
Washington, DC 20554

In the Matter of	)	
	)	
Reynolds Cable TV, Bolingbroke, GA	)	File No.: EB-IHD-19-00030142
	)	
	)	

CITATION AND ORDER

Adopted: December 10, 2019 **Released: December 10, 2019**

By the Chief, Enforcement Bureau:

I. INTRODUCTION

1. The Federal Communications Commission (FCC or Commission) requires providers of broadband Internet access services to publicly disclose accurate information regarding their network management practices, performance, and the commercial terms of the services they provide via a publicly available, easily accessible website or by transmittal to the Commission.[1] The Commission's transparency disclosure requirements allow consumers to make informed choices regarding the purchase and use of broadband Internet access services, and entrepreneurs and other small businesses to develop, market and maintain Internet offerings.[2] The Commission is committed to keeping the communications marketplace fair and honest by holding broadband ISPs to their obligation to be transparent to consumers about their services.

2. In this **CITATION AND ORDER** (Citation), we notify Reynolds Cable TV, Bolingbroke, GA (Reynolds Cable or Company)[3] that it willfully violated the Commission's rules (Rules) by failing to prominently disclose its network management practices, performance, and commercial terms associated with its broadband Internet access service. We therefore direct Reynolds Cable to publicly disclose the required information via a publicly available, easily accessible website, or by transmittal to the Commission, within thirty (30) days after the date of this Citation. If Reynolds Cable fails to comply with the Rules, it may be liable for significant fines.

3. Reynolds Cable is hereby on notice that if it subsequently engages in any conduct of the type described in this Citation, and specifically any violation of section 8.1 of the Rules, it may be subject to civil penalties, including but not limited to, substantial monetary forfeitures.[4] In assessing such

[1] *See Restoring Internet Freedom*, WC Docket No. 17-108, Declaratory Ruling, Report and Order, and Order, 33 FCC Rcd 311, 435, para. 215 (2018) (*RIF Order*); 47 CFR § 8.1 (Transparency Rule).

[2] *See RIF Order*, 33 FCC Rcd at 313, para. 3.

[3] Any entity that is a "Small Business Concern" as defined in the Small Business Act (Pub. L. 85-536, as amended) may avail itself of rights set forth in that Act, including rights set forth in 15 U.S.C. § 657, "Oversight of Regulatory Enforcement," in addition to other rights set forth herein.

[4] 47 U.S.C § 503(b)(5).

forfeitures, the Commission may consider both the conduct that led to this Citation and the conduct that followed it.[5]

II. BACKGROUND

4. Reynolds Cable offers broadband Internet access service to the public and, as such, is required to disclose accurate information regarding its network management practices, performance, and the commercial terms of the services it provides via a publicly available, easily accessible website or by transmittal to the Commission.[6] Reynolds Cable reported that as of June 30, 2017, it served only [redacted] subscribers. Reynolds Cable makes broadband service available in Monroe County, Georgia.

5. In late 2018, Commission staff conducted online searches to verify whether broadband providers were fulfilling their obligations to provide the disclosures required by the Transparency Rule. Although Commission records indicate the Company is an ISP,[7] Commission staff were unable to locate a transparency disclosure for Reynolds Cable, either on a publicly available, easily accessible website or via proper transmittal to the Commission.

6. The Commission's Wireline Competition Bureau (WCB) sent the Company one or more letters, reminding it of its disclosure obligations pursuant to the Transparency Rule,[8] and also that Commission staff had been unable to locate the Company's required disclosures. WCB directed the Company to indicate whether it had made the required disclosures, and if so, to notify WCB accordingly, including by either providing a link to where the disclosures were posted to a publicly available website, or evidence that the disclosure statement was provided to the Commission via its Transparency Disclosures Portal.[9] WCB also directed that if the Company had not provided the required disclosure statement, it must explain why. WCB warned that failure to comply with the instructions in the letter(s) could result in referral of the matter to the Commission's Enforcement Bureau. As of the date hereof, Commission staff remain unable to locate transparency disclosures for the Company on either a publicly available website or by proper transmittal to the Commission.

III. DISCUSSION

7. We find that the Company willfully violated the Transparency Rule by failing to post the required transparency disclosures.[10] The Transparency Rule requires ISPs to publicly disclose accurate information regarding their network management practices, performance characteristics, and commercial terms of their broadband Internet access services via a publicly available, easily accessible website or through transmittal to the Commission for its Transparency Disclosures Portal.[11]

---

[5] *See* S. Rep. No. 95-580, 95th Cong., 1st Sess. at 9 (1977) (If a person or entity that has been issued a citation by the Commission thereafter engages in the conduct for which the citation of violation was sent, the subsequent notice of apparent liability "*would attach not only for the conduct occurring subsequently but also for the conduct for which the citation was originally sent.*") (emphasis added).

[6] 47 CFR § 8.1.

[7] Commission rules require ISPs to file an FCC Form 477 on a semi-annual basis to provide data about where they offer Internet access service. 47 CFR §§ 1.7000-.7002. The Company appears to be an ISP because it has filed an FCC Form 477. *See Fixed Broadband Deployment Data from FCC Form 477*, https://www.fcc.gov/general/broadband-deployment-data-fcc-form-477 (last visited Dec. 3, 2019).

[8] Letter from Kris Monteith, Chief, Wireline Competition Bureau, FCC, to Terry Reynolds, President, Reynolds Cable TV Inc. (Aug. 29, 2018); Letter from Kris Monteith, Chief, Wireline Competition Bureau, FCC, to John Christel, Reynolds Cable TV Inc. (Aug. 29, 2018); Letter from Kris Monteith, Chief, Wireline Competition Bureau, FCC, to Willard Reynolds, Reynolds Cable TV (Feb. 12, 2019).

[9] *See ISP Transparency Disclosures Portal*, https://www fcc.gov/isp-disclosures (last visited Dec. 3, 2019).

[10] 47 CFR § 8.1(a).

[11] *Id.; see also RIF Order*, 33 FCC Rcd at 439-42, paras. 218-27.

8. Even after WCB reminded the Company that it appeared to be out of compliance with the Transparency Rule, there is no evidence that the Company has taken any steps to rectify its violation by posting the required transparency disclosures, nor has the Company demonstrated that it is not otherwise subject to the Transparency Rule or that it has otherwise been in compliance with the Transparency Rule.

9. By failing to comply with the Transparency Rule, the Company has deprived consumers of critical information that must be available when selecting Internet service in the marketplace. As the Commission has previously stated, clear disclosures help consumers make well-informed choices about their purchase and use of broadband Internet access services.[12] Moreover, transparent disclosures improve consumer confidence in ISPs' practices while providing entrepreneurs and other small businesses with information they can utilize to innovate and improve their own offerings.

10. The Company's failure to make the required transparency disclosures deprives the Commission of valuable information needed to perform its statutory obligation to observe the communications marketplace to monitor services and technologies, and to identify and eliminate potential marketplace barriers for the provision of information services.[13] Such disclosures substantially reduce the possibility that ISPs will engage in harmful business practices, and transparency motivates providers to engage in quick corrective measures if problematic conduct is identified. The Commission's Transparency Rule facilitates the Commission's ability to adeptly discharge its marketplace responsibilities, while simultaneously minimizing burdens on service providers.[14] Thus, the Company's failure to provide these important disclosures is harmful to the communications marketplace and constitutes a serious violation of the Commission's Transparency Rule.

IV. RESPONDING TO THIS CITATION

11. Reynolds Cable may respond to this Citation and challenge the factual and legal findings herein within thirty (30) calendar days from the release date of this Citation either through (1) a written statement, (2) a teleconference interview, or (3) a personal interview at the Commission Field Office nearest to Reynolds Cable's place of business.

12. If Reynolds Cable would like to arrange a teleconference or personal interview, it may contact Christopher J. Sova at (202) 418-1868. We note that the Commission Field Office nearest Reynolds Cable is located in Atlanta, Georgia. We further note that such teleconference or interview must take place within thirty (30) calendar days of the date of this Citation. If Reynolds Cable prefers to submit a written response with supporting documentation, it must send the response within thirty (30) calendar days of the date of this Citation to the contact and address provided in Paragraph 13, below.

13. All written communications should be sent to the address below.

Christopher J. Sova
Deputy Division Chief, Investigations and Hearings Division
Enforcement Bureau
Federal Communications Commission
445 12th Street, SW
Room 4-C330
Washington, DC 20554
Re: EB-IHD-19-00030142

14. Upon request, the Commission will make reasonable accommodations for persons with disabilities. If applicable, Reynolds Cable should provide a description of the accommodation required, and include as much detail as possible, and also provide contact information. Reynolds Cable should

[12] *RIF Order*, 33 FCC Rcd at 435, para. 209.

[13] *See* 47 U.S.C. § 257.

[14] *See RIF Order*, 33 FCC Rcd at 433-50, paras. 209-38.

allow at least five business days advance notice; last minute requests will be accepted, but may be impossible to fill. Reynolds Cable should send an e-mail to fcc504@fcc.gov or call the FCC's Consumer & Governmental Affairs Bureau:

> For sign language interpreters, CART, and other reasonable accommodations:
>
> 202-418-0530 (voice), 202-418-0432 (tty);
>
> For accessible format materials (braille, large print, electronic files, and audio format): 202-418-0531 (voice), 202-418-7365 (tty).

15. We advise Reynolds Cable that it is a violation of section 1.17 of the Rules for any person to make any false or misleading written or oral statement of fact.[15] Specifically, no person shall:

> (1) In any written or oral statement of fact, intentionally provide material factual information that is incorrect or intentionally omit material information that is necessary to prevent any material factual statement that is made from being incorrect or misleading; and
>
> (2) In any written statement of fact, provide material factual information that is incorrect or omit material information that is necessary to prevent any material factual statement that is made from being incorrect or misleading without a reasonable basis for believing that any such material factual statement is correct and not misleading.[16]

16. Further, the knowing and willful making of any false statement, or the concealment of any material fact, in reply to this Citation is punishable by fine or imprisonment under 18 U.S.C. section 1001.

17. Violations of section 1.17 of the Rules or the criminal statute referenced above may result in further legal action, including monetary forfeitures pursuant to section 503 of the Communications Act.[17]

18. Finally, we warn Reynolds Cable that, under the Privacy Act of 1974, 5 U.S.C. section 552a(e)(3), Commission staff will use all relevant material information before it, including information disclosed via interviews or written statements, to determine what, if any, enforcement action is required to ensure Reynolds Cable's compliance with the Communications Act and the Rules.

V. FUTURE VIOLATIONS

19. If, after receipt of this Citation, Reynolds Cable again violates section 8.1 of the Rules by engaging in conduct of the type described herein, the Commission may impose monetary forfeitures for each such violation.[18] The Rules authorize us to assess a maximum forfeiture of $151,005 for a single act or failure to act.[19] In exercising our forfeiture authority, we must consider the nature, circumstances,

---

[15] 47 CFR § 1.17.

[16] *Id.*

[17] 47 U.S.C. § 503.

[18] *See id.*; 47 CFR § 1.80. Base forfeiture amounts are subject to adjustment for inflation, *see* 47 CFR § 1.80(b)(9), and the forfeiture amount applicable to any violation will be determined based on the statutory amount designated at the time of the violation.

[19] 47 U.S.C. § 503(b)(2)(D); 47 CFR § 1.80(b)(7). This amount reflects inflation adjustments of the forfeitures specified in section 503(b)(2)(D). The Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015, Pub. L. No. 114-74, § 701, 129 Stat. 584, 599 (2015) (2015 Inflation Adjustment Act) requires agencies, starting in 2017, to adjust annually the civil monetary penalties covered thereunder, and to publish each such annual adjustment by January 15. The 2015 Inflation Adjustment Act amended the Federal Civil Penalties Inflation Adjustment Act of 1990, which is codified, as amended, at 28 U.S.C. section 2461 note (Inflation Adjustment Act). The Bureau

(continued….)

extent, and gravity of the violation and, with respect to the violator, the degree of culpability, any history of prior offenses, ability to pay, substantial economic gain, and such other matters as justice may require.[20] Further, as discussed above, the Commission may assess forfeitures on both the conduct that led to this Citation and the conduct following it.

VI. ORDERING CLAUSES

20. **IT IS ORDERED**, pursuant to sections 4(i), 4(j), 13, 257, and 403 of the Communications Act, that Reynolds Cable TV, Bolingbroke, GA shall submit a transparency disclosure that meets all the requirements of the Transparency Rule no later than thirty (30) days from the release date of this Citation.[21]

21. **IT IS FURTHER ORDERED** that a copy of this Citation shall be sent by first class and certified mail, return receipt requested, to Terry Reynolds, President & CEO, Reynolds Cable TV, Bolingbroke, GA, 528 South Main Street, P.O. Box 782, Swainsboro, GA 30401.

FEDERAL COMMUNICATIONS COMMISSION

Rosemary C. Harold
Chief
Enforcement Bureau

(Continued from previous page…)
released the order making the 2019 annual adjustment on December 19, 2018. *Amendment of Section 1.80(b) of the Commission's Rules, Adjustment of Civil Monetary Penalties to Reflect Inflation*, Order, 33 FCC Rcd 12278 (EB 2018); *see also* Annual Adjustment of Civil Monetary Penalties to Reflect Inflation, 83 Fed. Reg. 4600 (Feb. 1, 2019) (setting February 1, 2019, as the effective date for the increases). The 2015 Inflation Adjustment Act provides that the new penalty levels shall apply to penalties assessed after the effective date of the increase, "including [penalties] whose associated violation predated such increase." 28 U.S.C. § 2461 note, citing Inflation Adjustment Act, as amended, § 6.

[20] 47 U.S.C. § 503(b)(2)(E); 47 CFR § 1.80(b)(8), Note § II (articulating criteria for upward adjustments (egregious misconduct, ability to pay/relative disincentive, intentional violation, substantial harm, prior violations of any FCC requirements, substantial economic gain, and repeated or continuous violation) and downward adjustments (minor violation, good faith or voluntary disclosure, history of overall compliance, and inability to pay)).

[21] *See* 47 U.S.C. §§ 154(i), 154(j), 163, 257, 403.