

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

In the Matter of)	
)	
American InfoAge, LLC)	
)	
Antenna Structure Registration #1202433)	File Number. EB-01-TP-073
)	
Clearwater, FL)	NAL/ Acct. No.: 200132700007

NOTICE OF APPARENT LIABILITY FOR FORFEITURE

Released: April 25, 2001

By the Enforcement Bureau, Tampa Office

I. INTRODUCTION

1. In this Notice of Apparent Liability for Forfeiture, we find American InfoAge, LLC, Clearwater, Florida apparently violated Section 17.51(b)¹ of the Commission's Rules for failing to properly light an antenna structure. We conclude that American InfoAge, LLC, is apparently liable for forfeiture in the amount of ten thousand dollars (\$10,000).

II. BACKGROUND

2. On February 15, 2001, the Commission's Tampa Field Office received a complaint regarding an antenna structure light outage in Clearwater, FL. The complainant indicated that the white strobe light had been out on the top of the antenna structure for over a month. The same day, Tampa Field Office agents drove to the antenna structure site to investigate the allegation. The agents noted that no lights were illuminated on the antenna structure. There was a sign on the fence with a space indicated for the FCC registration number. However, that number was left blank.

3. On February 15, 2001, after the inspection, the antenna structure owner was contacted. The owner explained that the red light was not automatically coming on until it was very dark outside, leaving the white strobe on longer than anticipated. This caused problems with the traffic on a nearby busy highway. Therefore, the strobe used for daytime lighting was intentionally disconnected. The FAA confirmed that they had not been notified of the outage.

4. During the telephone conversation on February 15, 2001, the posting of the Antenna Structure Registration Number was also discussed. The antenna structure owner supplied the registration number of 1202433. The number was not posted at the antenna structure site at the

¹ 47 C.F.R. § 17.51(b)

time of the inspection on February 15, 2001.

III. DISCUSSION

5. Section 17.51(b) states that all high intensity and medium intensity obstruction lighting shall be exhibited continuously unless otherwise specified. At the time of the inspection, the owner had intentionally turned off the daytime lighting on the structure.

6. Based on the evidence before us, we find that American InfoAge, LLC willfully² violated Section 17.51(b) of the Commission's Rules by its failure to comply with the Commission's Rules regarding the construction, marking and lighting of antenna structures.

7. Pursuant to Section 1.80(b)(4)³ of the Commission's Rules, the base forfeiture amount for failure to comply with prescribed lighting and/or marking is \$10,000. In assessing the monetary forfeiture amount, we must also take in account the statutory factors set forth in Section 503(b)(2)(D) of the Communications Act of 1934 ("Act")⁴, as amended, which include the nature, circumstances, extent and gravity of the violation(s), 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. Considering the record as a whole, we believe that a \$10,000 forfeiture is warranted

IV. ORDERING CLAUSES

8. Accordingly, IT IS ORDERED THAT, pursuant to Section 503(b) of the Act,⁵ and Section 1.80 of the Commission's Rules,⁶ American InfoAge, LLC is hereby NOTIFIED of this APPARENT LIABILITY FOR A FORFEITURE in the amount of ten thousand dollars (\$10,000) for willful violation of Section 17.51(b) of the Commission's Rules.

9. IT IS FURTHER ORDERED THAT, pursuant to Section 1.80 of the Commission's Rules, within thirty days of the release date of this NOTICE OF APPARENT LIABILITY, American InfoAge, LLC 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 may be made by mailing a check or similar instrument, payable to the order of the Federal Communications Commission, to the Forfeiture Collection

² Section 312(f)(1) of the Act, 47 U.S.C. § 312(f)(1), which applies equally to Section 503(b) of the Act, provides that "[t]he term 'willful,' when used with reference to the commission or omission of any act, means the conscious and deliberate commission or omission of such act, irrespective of any intent to violate any provision of this Act" See *Southern California Broadcasting Co.*, 6 FCC Rcd 4387 (1991).

³ 47 C.F.R. § 1.80(b)(4)

⁴ 47 U.S.C. § 503(b)(2)(D)

⁵ 47 U.S.C. § 503(b)

⁶ 47 C.F.R. § 1.80

Section, Finance Branch, Federal Communications Commission, P.O. Box 73482, Chicago, Illinois 60673-7482. The payment should note the NAL/Acct. No. referenced above.

11. The response, if any, must be mailed to Federal Communications Commission, Office of the Secretary, 445 12th Street, S.W., Washington, D.C. 20554, Attn: Enforcement Bureau – Technical & Public Safety Division, and MUST INCLUDE THE NAL/Acct. No. referenced in the letterhead above.

12. 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 practices (“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.

13. Requests for payment of the full amount of this Notice of Apparent Liability under an installment plan should be sent to: Chief, Revenue and Receivables Operations Group, 445 12th Street, S.W., Washington, D.C. 20554.⁷

14. IT IS FURTHER ORDERED THAT a copy of this NOTICE OF APPARENT LIABILITY shall be sent by Certified Mail Return Receipt Requested to American InfoAge, LLC, 2727 Ulmerton Road, Suite 230, Clearwater, FL, 33762, ATTN: Jim Bondurant.

FEDERAL COMMUNICATIONS COMMISSION

Ralph M. Barlow
District Director, Tampa Office
Enforcement Bureau

⁷ See 47 C.F.R. § 1.1914.