

Federal Communications Commission

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

In the Matter of)	
)	
Time Warner Entertainment Company LP)	File No. EB-09-NY-0260
Operator of Cable Television System)	
Physical System ID # 009040)	
Flushing, New York)	NOV No. V201032380004

NOTICE OF VIOLATION

Released: December 31, 2009

By the District Director, New York Office, Northeast Region, Enforcement Bureau:

1. This is a Notice of Violation (“Notice”) issued pursuant to Section 1.89 of the Commission’s Rules¹ to Time Warner Entertainment Company LP (“Time Warner”), operator of a cable television system in Flushing, New York. This Notice may be combined with a further action, if further action is warranted.²

2. On September 22, 2009, an agent of the Commission’s New York Office inspected Time Warner’s cable television system serving Brooklyn and Queens, New York, and observed the following violation:

47 C.F.R. §11.61(b): "Entries shall be made in EAS Participant records, as specified in Sections 11.35(a) and 11.54(b)(13)."

The agent found that entries were not made in the EAS logs to show required weekly EAS tests received from the primary source for the weeks of March 8, May 31, and August 9, 2009 and from the secondary source for the weeks of March 8, April 19, June 21, June 28, July 5, July 12, July 19, and July 26, 2009. Entries were not made in the EAS logs to show required monthly EAS tests received and retransmitted from the primary source for the month of August 2009 and from the secondary source for the months of June 2009 and July 2009. There were no entries in the station logs indicating the reasons why the required EAS tests were not received.

3. As the nation’s emergency warning system, the Emergency Alert System is critical to public safety, and we recognize the vital role that broadcasters play in ensuring its success. The Commission takes seriously any violations of the Rules implementing the EAS and expects full compliance from its regulatees. Pursuant to Section 403 of the Communications Act of 1934, as amended,³ and Section 1.89 of the Commission's Rules, we seek additional

¹47 C.F.R. § 1.89.

²47 C.F.R. § 1.89(a).

³47 U.S.C. § 403.

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information concerning the violation(s) and any remedial actions the station may have taken. Therefore, Time Warner must submit a written statement concerning this matter within twenty (20) days of release of this Notice. The response (i) must fully explain each violation, including all relevant surrounding facts and circumstances, (ii) must contain a statement of the specific action(s) taken to correct each violation and preclude recurrence, and (iii) must include a time line for completion of any pending corrective action(s). The response must be complete in itself and must not be abbreviated by reference to other communications or answers to other notices.⁴

4. In accordance with Section 1.16 of the Commission’s Rules, we direct Time Warner to support its response to this Notice with an affidavit or declaration under penalty of perjury, signed and dated by an authorized officer of Time Warner with personal knowledge of the representations provided in Time Warner’s response, verifying the truth and accuracy of the information therein,⁵ and confirming that all of the information requested by this Notice which is in the licensee’s possession, custody, control, or knowledge has been produced. To knowingly and willfully make any false statement or conceal any material fact in reply to this Notice is punishable by fine or imprisonment under Title 18 of the U.S. Code.⁶

5. All replies and documentation sent in response to this Notice should be marked with the File No. and NOV No. specified above, and mailed to the following address:

Federal Communications Commission
New York Office
201 Varick Street, Suite 1151
New York, NY 10014

6. This Notice shall be sent to Time Warner at its address of record.

⁴47 C.F.R. § 1.89(c).

⁵Section 1.16 of the Commission’s Rules provides that “[a]ny document to be filed with the Federal Communications Commission and which is required by any law, rule or other regulation of the United States to be supported, evidenced, established or proved by a written sworn declaration, verification, certificate, statement, oath or affidavit by the person making the same, may be supported, evidenced, established or proved by the unsworn declaration, certification, verification, or statement in writing of such person Such declaration shall be subscribed by the declarant as true under penalty of perjury, and dated, in substantially the following form . . . : ‘I declare (or certify, verify, or state) under penalty of perjury that the foregoing is true and correct. Executed on (date). (Signature)’.” 47 C.F.R. § 1.16.

⁶18 U.S.C. § 1001 *et seq.* See also 47 C.F.R. § 1.17.

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7. The Privacy Act of 1974⁷ requires that we advise you that the Commission will use all relevant material information before it, including any information disclosed in your reply, to determine what, if any, enforcement action is required to ensure compliance.

FEDERAL COMMUNICATIONS COMMISSION

Daniel W. Noel
District Director
New York District Office
Northeast Region
Enforcement Bureau

⁷P.L. 93-579, 5 U.S.C. § 552a(e)(3).