

Federal Communications Commission

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

In the Matter of)	
)	
Time Warner Cable)	File No. EB-09-LA-0088
)	
Cable System Operator)	
Physical System)	
ID # 020717)	NOV No. V201032900007
Ontario, CA)	
)	

NOTICE OF VIOLATION

Released: January 4, 2010

By the District Director, Los Angeles Office, Western Region, Enforcement Bureau:

1. This is a Notice of Violation ("Notice") issued pursuant to Section 1.89 of the Commission's Rules,¹ to Time Warner Cable ("Time Warner"), operator of a cable system in Ontario, CA. This Notice may be combined with a further action, if further action is warranted.²

2. On October 23, 2009, an agent of the Enforcement Bureau's Los Angeles Office inspected cable system located at 1500 Auto Center and observed the following violations:

- a. 47 C.F.R. § 76.1703 "Cable operators airing children's programming must maintain records sufficient to verify compliance with §76.225 and make such records available to the public. Such records must be maintained for a period sufficient to cover the limitations period specified in 47 U.S.C. 503(b)(6)(B)."

At the time of inspection, the agent found that Time Warner's file was missing the children programming records for the second quarter of 2009.

- b. 47 C.F.R. § 76.1710: "Cable operators are required to maintain records in their public file for a period of three years regarding the nature and extent of their attributable interests in all video programming services as well as information regarding their carriage of such vertically integrated video programming services on cable systems in which they have an attributable

¹47 C.F.R. § 1.89.

²47 C.F.R. § 1.89(a).

Federal Communications Commission

interest. These records must be made available to local franchise authorities, the Commission, or members of the public on reasonable notice and during regular business hours.”

At the time of inspection, the agent found that Time Warner’s file was missing the operator interest in video programming information for the fourth quarter of 2006.

- c. 47 C.F.R. § 76.1711: “Every cable system of 1,000 or more subscribers shall keep a record of each test and activation of the Emergency Alert System (EAS) procedures pursuant to the requirement of part 11 of this chapter and the EAS Operator Handbook. These records shall be kept for three years.”

At the time of inspection, Time Warner Cable was unable to access the EAS logs for the agent.

- d. 47 C.F.R. § 11.35(a): “ EAS Participants are responsible for ensuring that EAS Encoders, EAS Decoders and Attention Signal generator and receiving equipment used as part of the EAS are installed so that the monitoring and transmitting function are available during the times the stations and systems are in operation. Additionally, EAS Participants must determine the cause of any failures to receive the required tests or activations specified in §11.61(a)(1) and (a)(2).”

At the time of inspection, Time Warner was unable to issue a weekly EAS test.

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 and cable operators play in ensuring its success. The Commission takes seriously any violations of the Rules implementing the EAS and expects full compliance from its regulatees. We also must investigate violations of other rules that apply to broadcast licensees and cable operators. 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 information concerning the violations and any remedial actions the system 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

³47 U.S.C. § 403.

⁴47 C.F.R. § 1.89(c).

Federal Communications Commission

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
Los Angeles Office
18000 Studebaker Rd., Suite 660
Cerritos, California, 90703

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

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

Nader Haghghat
District Director
Los Angeles District Office
Western Region
Enforcement Bureau

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.

⁷P.L. 93-579, 5 U.S.C. § 552a(e)(3).