
Federal Communications Commission

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

In the Matter of)	
)	
The Vacation Channel, LLC)	File No.: EB-FIELDNER-18-00027592
)	
Licensee of Station KBNS-CD)	
Facility ID: 168219)	
)	
Branson, Missouri)	
)	

NOTICE OF VIOLATION

Released: October 25, 2018

By the Regional Director, Region One, Enforcement Bureau:

1. This is a Notice of Violation (Notice) issued pursuant to Section 1.89 of the Commission's rules (Rules)¹ to The Vacation Channel, LLC, licensee of Digital Class A Television Station KBNS-CD in Branson, Missouri. Pursuant to Section 1.89(a) of the Rules, issuance of this Notice does not preclude the Enforcement Bureau from further action if warranted, including issuing a Notice of Apparent Liability for Forfeiture for the violations noted herein.²

2. On August 21, 2018, an Agent of the Enforcement Bureau's Chicago Office inspected Station KBNS-CD in Branson, Missouri and observed the following violations:

- a. 47 CFR § 73.1560 (c)(1): "Except as provided in paragraph (d) of this section, the visual output power of a TV or Class A TV transmitter, as determined by the procedures specified in Sec. 73.664, must be maintained as near as is practicable to the authorized transmitter output power and may not be less than 80% nor more than 110% of the authorized power." According to KBNS-CD transmitter logs made available during inspection, the transmitter output power was less than 80% of that authorized on August 3, 2018, August 10, 2018 and August 17, 2018.
- b. 47 CFR § 73.1560 (d) "*Reduced power operation*. In the event it becomes technically impossible to operate at authorized power, a broadcast station may operate at reduced power for a period of not more than 30 days without specific authority from the FCC... If causes beyond the control of the licensee prevent restoration of the authorized power within 30 days, a request for Special Temporary Authority (see §73.1635) must be made to the FCC in Washington, DC

¹ 47 CFR § 1.89.

² 47 CFR § 1.89(a).

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for additional time as may be necessary.” According to KBNS-CD transmitter logs made available during inspection, the transmitter operated at reduced power between February 23, 2018 and June 29, 2018. The Vacation Channel LLC failed to submit a request for special temporary authorization (STA) with the Commission to operate at reduced power for the period between March 23, 2018 and June 29, 2018.

- c. 47 CFR § 11.35(a): “(a) EAS Participants are responsible for ensuring that EAS Encoders, EAS Decoders, Attention Signal generating and receiving equipment, and Intermediate Devices used as part of the EAS to decode and/or encode messages formatted in the EAS Protocol and/or the Common Alerting Protocol are installed so that the monitoring and transmitting functions are available during the times the stations and systems are in operation. Additionally, EAS Participants must determine the cause of any failure to receive the required tests or activations specified in §11.61(a)(1) and (2). Appropriate entries indicating reasons why any tests were not received must be made in the broadcast station log as specified in §§73.1820 and 73.1840 of this chapter for all broadcast streams.” The Vacation Channel, LLC failed to make any entries in the logs for Station KBNS-CD to indicate the reasons why it failed to receive the EAS activations from the assigned LP-1 Station KTTS and LP-2 Station KTXR during the months of May, June, July, and August 2018.³
- d. 47 CFR § 11.52(d)(4): “If the required EAS message sources cannot be received, alternate arrangements or a waiver may be obtained by written request to the Chief, Public Safety and Homeland Security Bureau. In an emergency, a waiver may be issued over the telephone with a follow up letter to confirm temporary or permanent reassignment.” At the time of the inspection The Vacation Channel, LLC was only monitoring AM Station KSGF on 1260 kHz for EAS activations instead of the required LP-1 Station KTTS and LP-2 Station KTXR. The Vacation Channel, LLC did not have a waiver to monitor this alternate EAS source.

3. As the nation’s emergency warning system, the Emergency Alert System is critical to public safety, and we recognize the vital role that 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 Station operators. Pursuant to Section 308(b) of the Communications Act of 1934, as amended,⁴ Section 403 of the Communications Act of 1934, as amended,⁵ and Section 1.89 of the Rules, we seek additional information concerning the violations and any remedial actions taken. Therefore, The Vacation Channel, LLC must submit a written statement concerning these matters within twenty (20) days of release of this

³ According to the Missouri State EAS Plan, Station KBNS-CD is located in the Springfield Operational Area and should monitor FM Station KTTS on 94.7 MHz as its Local Primary 1 Source and FM Station KTXR on 101.3 MHz as its Local Primary 2 Source.

⁴ 47 U.S.C. § 308(b).

⁵ 47 U.S.C. § 403.

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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.⁶

4. In accordance with Section 1.16 of the Rules, we direct The Vacation Channel, LLC to support its response to this Notice with an affidavit or declaration under penalty of perjury, signed and dated by an authorized officer of The Vacation Channel, LLC with personal knowledge of the representations provided in The Vacation Channel, LLC's response, verifying the truth and accuracy of the information therein,⁷ and confirming that all of the information requested by this Notice which is in the company'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.⁸

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
Office of Regional Director
Columbia Regional Office
9050 Junction Drive
Annapolis, Maryland 20701

This Notice shall be sent to The Vacation Channel, LLC, 225 Violyln Drive, Branson, MO 65616 and its counsel of record, Paul Feldman, Fletcher Hield and Hildreth, P.L.C., 1300 North 17th Street, Eleventh Floor, Arlington, VA 22209.

⁶ 47 CFR § 1.89(c).

⁷ Section 1.16 of the 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.

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

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6. The Privacy Act of 1974⁹ 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

David C. Dombrowski
Regional Director
Region One
Enforcement Bureau
Federal Communications Commission

⁹ P.L. 93-579, 5 U.S.C. § 552a(e)(3).