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

In the Matter of	)	
	)	
Nexstar Broadcasting, Inc.	)	Facility I.D. No. 29557
Licensee of Station KNWA-TV	)	NAL/Acct. No.: 201341420062
Rogers, Arkansas	)	FRN: 0009961889

NOTICE OF APPARENT
LIABILITY FOR FORFEITURE

Adopted: December 5, 2013 **Released: December 6, 2013**

By the Chief, Video Division, Media Bureau:

I. INTRODUCTION:

1. In this *Notice of Apparent Liability for Forfeiture* ("NAL") issued pursuant to Section 503(b) of the Communications Act of 1934, as amended (the "Act"), and Section 1.80 of the Commission's Rules (the "Rules"),[1] the Commission finds that Nexstar Broadcasting, Inc. (the "Licensee"), licensee of Station KNWA-TV (the "Station"), apparently willfully and repeatedly violated (i) Section 73.3526(e)(11)(ii)[2] of the Rules by failing to place in the station's public inspection file in a timely manner all required records concerning compliance with the children's programming commercial limits and (ii) Sections 73.3526(e)(7) & (11)(i) of the Rules by failing to prepare, place in the public file, and file electronically with the Commission all of the station's Equal Employment Opportunity ("EEO") public file reports and issues/programs lists. Based upon our review of the facts and circumstances before us, we conclude that the Licensee is apparently liable for a monetary forfeiture in the amount of thirteen thousand dollars ($13,000).

II. BACKGROUND:

2. Section 73.3526 of the Rules requires each commercial broadcast licensee to maintain a public inspection file containing specific types of information related to station operations.[3] As set forth in subsection 73.3526(e)(11)(ii),[4] each commercial television licensee is required to prepare and place in its public inspection file certification that it complied with the commercial limits on children's programming set forth in Section 73.670[5] of the Commission's rules. Under subsection 73.3526(e)(7), each commercial television licensee must upload all information required with respect to EEO responsibilities as described in Section 73.2080[6] of the Commission's rules. In accordance with subsection 73.3526(e)(11)(i) of the Rules, every commercial television licensee is required to place in its public inspection file, on a quarterly basis, an issues and programs list with a brief description describing the "programs that have provided the stations most significant treatment of community issues during the

[1] 47 U.S.C. § 503(b); 47 C.F.R. § 1.80.

[2] 47 C.F.R. § 73.3526(e)(11)(ii).

[3] 47 C.F.R. § 73.3526(e)(11)(i).

[4] 47 C.F.R. § 73.3526(e)(11)(ii).

[5] 47 C.F.R. § 73.670.

[6] 47 C.F.R. § 73.2080.

preceding three month period."[7]

3. On January 31, 2013, the Licensee filed its license renewal application (FCC Form 303-S) for the Station.[8] In response to Section IV, Question 3 of the Application, the Licensee admitted that it failed to (i) timely prepare and file certification of its compliance with the commercial limits on children's programming and (ii) timely prepare, place in the public inspection file, and file with the Commission the Station's EEO public inspection file reports for 2005 and 2006 and issues/programs lists for 18 quarters.[9]

III. DISCUSSION

4. The Licensee apparently failed to timely prepare and file certification of its compliance with the commercial limits on children's programming, in violation of Section 73.3526(e)(11)(ii) of the Rules. The Licensee also failed to timely prepare and place in the public inspection file (i) the Station's EEO public inspection file reports for two years, in violation of Section 73.3526(e)(9), and (ii) the Station's issues/programs lists for 18 quarters, in violation of Section 73.3526(e)(11)(i).

5. This *NAL* is issued pursuant to Section 503(b)(1)(B) of the Act. Under that provision, any person who is determined by the Commission to have willfully or repeatedly failed to comply with any provision of the Act or any rule, regulation, or order issued by the Commission shall be liable to the United States for a forfeiture penalty.[10] Section 312(f)(1) of the Act defines willful as "the conscious and deliberate commission or omission of [any] act, irrespective of any intent to violate" the law.[11] The legislative history to Section 312(f)(1) of the Act clarifies that this definition of willful applies to both Sections 312 and 503(b) of the Act,[12] and the Commission has so interpreted the term in the Section 503(b) context.[13] Section 312(f)(2) of the Act provides that "[t]he term 'repeated,' when used with reference to the commission or omission of any act, means the commission or omission of such act more than once or, if such commission or omission is continuous, for more than one day."[14]

6. The Commission's *Forfeiture Policy Statement* and Section 1.80(b)(4) of the Rules establish a base forfeiture amount of $3,000 for failure to file a required form and $10,000 for public file violations.[15] In determining the appropriate forfeiture amount, we may adjust the base amount upward or downward by considering the factors enumerated in Section 503(b)(2)(D) of the Act, including "the nature, circumstances, extent, and gravity of the violation and, with respect to the violator, the degree of culpability, any history of prior offenses, ability to pay, and such other matters as justice may require."[16] In this case, the Licensee failed to timely file certification of its compliance with the commercial limits on children's programming, and we believe that a forfeiture in the amount of $3,000 is appropriate for this

[7] 47 C.F.R. § 73.3526(e)(11)(i).

[8] File No. BRCDT-20130201ADZ.

[9] *Id.*, Exhibit 27.

[10] 47 U.S.C. § 503(b)(1)(B); s*ee also* 47 C.F.R. § 1.80(a)(1).

[11] 47 U.S.C. § 312(f)(1).

[12] *See* H.R. Rep. No. 97-765, 97th Cong. 2d Sess. 51 (1982).

[13] *See Southern California Broadcasting Co.*, Memorandum Opinion and Order, 6 FCC Rcd 4387, 4388 (1991).

[14] 47 U.S.C. § 312(f)(2).

[15] *See Forfeiture Policy Statement and Amendment of Section 1.80(b) of the Rules to Incorporate the Forfeiture Guidelines*, Report and Order, 12 FCC Rcd 17087, 17113-15 (1997) *("Forfeiture Policy Statement"), recon. denied*, 15 FCC Rcd. 303 (1999); 47 C.F.R. § 1.80(b)(4), note to paragraph (b)(4), Section I.

[16] 47 U.S.C. § 503(b)(2)(D); *see also Forfeiture Policy Statement,* 12 FCC Rcd at 17100-01; 47 C.F.R. § 1.80(b)(4); 47 C.F.R. § 1.80(b)(4), note to paragraph (b)(4), Section II.

violation. The Licensee also failed to timely prepare and place in the public inspection file (i) the Station's EEO public inspection file reports for two years and (ii) the Station's issues/programs lists for 18 quarters, and we believe that a forfeiture of $10,000 is appropriate for these violations. Accordingly, we find that the Licensee is liable for a forfeiture in the amount of $13,000 for its apparent willful and repeated violations of Section 73.3526.[17]

IV. ORDERING CLAUSES

7. Accordingly, IT IS ORDERED, pursuant to Section 503(b) of the Communications Act of 1934, as amended, and Section 1.80 of the Commission's Rules, that Nexstar Broadcasting, Inc. is hereby NOTIFIED of its APPARENT LIABILITY FOR FORFEITURE in the amount of thirteen thousand dollars ($13,000) for its apparent willful and repeated violation of Section 73.3526 of the Commission's Rules.

8. IT IS FURTHER ORDERED, pursuant to Section 1.80 of the Commission's Rules, that within thirty (30) days of the release date of this *NAL,* Nexstar Broadcasting, Inc. SHALL PAY the full amount of the proposed forfeiture or SHALL FILE a written statement seeking reduction or cancellation of the proposed forfeiture.

9. Payment of the proposed forfeiture must be made by check or similar instrument, payable to the order of the Federal Communications Commission. The payment must include the NAL/Acct. No. and FRN No. referenced in the caption above. Payment by check or money order may be mailed to Federal Communications Commission, at P.O. Box 979088, St. Louis, MO 63197-9000. Payment by overnight mail may be sent to U.S. Bank-Government Lockbox #979088, SL-MO-C2-GL, 1005 Convention Plaza, St. Louis, MO 63101. Payment by wire transfer may be made to ABA Number 021030004, receiving bank: TREAS NYC, BNF: FCC/ACV--27000001 and account number as expressed on the remittance instrument. If completing the FCC Form 159, enter the NAL/Account number in block number 23A (call sign/other ID), and enter the letters "FORF" in block number 24A (payment type code).

10. The response, if any, must be mailed to Office of the Secretary, Federal Communications Commission, 445 12th Street, S.W., Washington, D.C. 20554, ATTN: Peter Saharko, Attorney Adviser, Video Division, Media Bureau, and MUST INCLUDE the NAL/Acct. No. referenced above. A copy should also be sent by email to peter.saharko@fcc.gov

11. The Commission will not consider reducing or canceling a forfeiture in response to a claim of inability to pay unless the respondent 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 respondent'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.

12. Requests for full payment of the forfeiture proposed in this *NAL* under the installment plan should be sent to: Associate Managing Director- Financial Operations, 445 12th Street, S.W., Room 1-A625, Washington, D.C. 20554.[18]

[17] Based upon the record before us, we think that an admonishment is warranted for the station's failure to identify CORE children's programming for publishers of program guides.

[18] *See* 47 C.F.R. § 1.1914.

13. IT IS FURTHER ORDERED that copies of this *NAL* shall be sent, by First Class and Certified Mail, Return Receipt Requested, to Nexstar Broadcastng, Inc., Attention: Elizabeth Ryder, 5215 North O'Connor Boulevard, Suite 1400, Irving, Texas, 75039.

FEDERAL COMMUNICATIONS COMMISSION

Barbara A. Kreisman
Chief, Video Division
Media Bureau