Federal Communications Commission
Washington, D.C. 20554

August 29, 2012

Robert J. Folliard, III
Dow Lohnes PLLC
1200 New Hampshire Avenue, NW
Suite 800
Washington, DC 20036-6802

In re: Smith Media License Holdings, LLC
(WFFF-TV)
MB Docket No. 12-146
CSR-8643-C

Dear Mr. Folliard:

On May 17, 2012, Smith Media License Holdings, LLC ("Smith Media"), licensee of television station WFFF-TV, Burlington, Vermont, by its attorneys, filed an Enforcement Complaint against Trans-video Cable ("Trans-video"), for retransmitting the signal of WFFF-TV on its cable system serving Northfield, Vermont without Smith Media's consent.

Subsequently, on July 31, 2012, Smith Media informed the Commission that the parties have reached a new retroactive retransmission consent agreement, rendering the Complaint moot. Accordingly, Smith Media requests that its Complaint be withdrawn and dismissed without further Commission review.

In view of the foregoing, pursuant to Section 0.283 of the Commission's rules, the Complaint is hereby dismissed.

Sincerely,

Steven Broeckaert
Senior Deputy Chief, Policy Division
Media Bureau

cc: William S. Smith
Miller & Smith
38 N. Main Street
Northfield, VT 05663

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- **Proceeding Number is 12-146**

Displaying 1 to 5 of 5. **Modify Search** **Page Size:** 10 **View:** Tabular

Proceeding Number	Name of Filer	Lawfirm Name	Date Received	Date Posted	Exparte	Type of Filing
MB 12-146	Smith Media License Holdings, LLC View (2)	Dow Lohnes PLLC	07/31/2012	08/01/2012	No	WITHDRAWAL
MB 12-146	Media Bureau Policy Division View (2)		06/08/2012	07/16/2012	No	PUBLIC NOTICE
MB 12-146	Media Bureau, Policy Divison View (2)		06/08/2012	07/16/2012	No	PUBLIC NOTICE
MB 12-146	ITV of Buffalo, LLC Reply To opposition (11)	Allan G. Moskowitz, Esq.	07/09/2012	07/10/2012	No	REPLY
MB 12-146	Smith Media License Holdings, LLC View (36)	Dow Lohnes PLLC	05/25/2012	05/25/2012	No	COMPLAINT

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BEFORE THE
FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON, D.C. 20554

In the Matter of Trans-video Cable Enforcement Complaint Concerning WFFF-TV, Burlington, VT	CSR-8643-C MB Docket No. 12-146 FILED/ACCEPTED MAY 17 2012 Federal Communications Commission Office of the Secretary

To: The Secretary's Office
Attn: The Media Bureau

ENFORCEMENT COMPLAINT

Smith Media License Holdings, LLC ("Licensee"), licensee of full power television station WFFF-TV, Burlington, Vermont ("WFFF"), by its attorneys, hereby files this Enforcement Complaint against Trans-video Cable ("Trans-video"). Trans-video currently retransmits the signal of WFFF on its cable system serving Northfield, Vermont (the "Community"), without the consent of Licensee in violation of Section 325(b)(1)(A) of the Communications Act of 1934, as amended (the "Act"), 47 U.S.C. § 325(b)(1)(A), and Section 76.64(a) of the Commission's rules, 47 C.F.R. § 76.64(a). Licensee seeks an Order compelling Trans-video to comply with the law and imposing such sanctions on Trans-video as the Bureau deems appropriate for the operator's knowing, deliberate, and continuing violations of the law.

Under the Communications Act and the Commission's rules, cable systems may not retransmit the signal of a television broadcast station without the consent of the broadcaster. Section 325(b) of the Communications Act provides that cable systems and multichannel video programming distributors must obtain the "**express authority** of the originating station" to

retransmit the signal of a broadcasting station.[1] Section 76.64 of the Commission's rules adds the additional requirements that the originating station's express consent must be in writing and must "specify the extent of the consent being granted."[2] The Commission has stated that "properly documented retransmission of a television signal without consent would be grounds for imposition of a forfeiture"[3] and recently fined a cable operator for retransmitting a television station without consent.[4]

The Communications Act requires Trans-video to obtain Licensee's consent to retransmit WFFF. Trans-video's cable system serving the Community indisputably is a multichannel video programming distributor within the meaning of Section 602 of the Communications Act.[5] Based upon information and belief, it is a facility that is equipped to provide multiple channels of video programming and cable service to multiple subscribers within a community.[6] Likewise, WFFF indisputably is a broadcasting station within the meaning of Section 3 of the Communications Act because it is a television station equipped to broadcast a television signal to the public.[7] Nielsen Media Research, Inc. has assigned WFFF to the Burlington-Plattsburgh DMA, and the Trans-video system serves subscribers located within this DMA.[8] Licensee properly elected retransmission consent for WFFF on the Trans-video system serving the Community for the

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[1] 47 U.S.C. § 325(b)(1)(A) (emphasis added). Exceptions to this rule, including those for local commercial stations that elect to assert their must-carry rights, are not applicable here. *See* 47 U.S.C. §§ 325(b)(1)(B), 534(b).

[2] 47 C.F.R. §§ 76.64(a), 76.64(i), 76.64(j).

[3] Implementation of the Cable Television and Consumer Protection and Competition Act of 1992: Broadcast Signal Carriage Issues, *Report and Order*, 8 FCC Rcd 2965, 3005 at para. 175 (1993).

[4] Bailey Cable TV, Inc., *Notice of Apparent Liability for Forfeiture*, DA 12-420 (Med. Bur. rel. Mar. 16 2012); Bailey Cable TV, Inc., *Notice of Apparent Liability for Forfeiture*, DA 12-421 (Med. Bur. rel. Mar. 16 2012).

[5] *See* 47 U.S.C. §§ 522(7), 522(13).

[6] *See* List of Registered Vermont Cable Communities, *available at* http://www.fcc.gov/mb/engineering/list/VT.xls (last visited May 4, 2012) (showing Trans-video system registered as VT0054 in Northfield, Vermont).

[7] *See* 47 U.S.C. §§ 153(5), 153(6); *see also* FCC File Nos. BLCDT-20070629AAM.

[8] *See* BIA/Kelsey, Investing in Television: Market Report 2011 at 95 (identifying DMA assignments applicable to the current carriage cycle).

2012-2014 carriage cycle on September 21, 2011 when it sent its retransmission consent election statement.[9] Therefore, Trans-video must obtain Licensee's express, written consent to retransmit WFFF's signal on its cable system serving the Community.

Since April 19, 2012, Trans-video has not had Licensee's express, written consent to retransmit WFFF. Beginning on December 29, 2011, Licensee extended its grant of retransmission consent for WFFF to Trans-video while the parties engaged in retransmission consent negotiations. Between January 1, 2012 and April 13, 2012, Licensee granted good faith extensions of consent seven times. When Trans-video refused to negotiate in good faith over a period of three months, Licensee notified Trans-video the final extension of consent would expire on April 18, 2012.[10] Thus, since April 19, 2012, Trans-video has not had Licensee's express, written consent to retransmit WFFF.

Despite no longer possessing Licensee's consent, Trans-video continued to retransmit WFFF's signal. On April 19, 2012, Station personnel confirmed that Trans-video continued to retransmit WFFF-TV.[11] Accordingly, Licensee immediately sent Trans-video an Advance Notice of Copyright Infringement, demanding that Trans-video cease retransmission of WFFF. Trans-video refused delivery of Licensee's letter.[12] On April 20, April 23, and May 1, Licensee again confirmed that Trans-video continued to knowingly and willfully retransmit WFFF's signal without consent,[13] forcing Licensee to seek enforcement of its rights before the Commission. Indeed, WFFF's news manager was advised by Trans-Video that the operator had no intention of dropping WFFF and that the matter will go to litigation.[14]

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[9] *See* Exhibit A.

[10] *See* Declaration of Ken Kaszubowski, attached hereto.

[11] *See* Declarations of Lesley Engle and David Freer, attached hereto.

[12] *See* Exhibit B.

[13] *See* Declarations of David Freer, Dana Nahumck, and Alex Pastewski, attached hereto; *see also* Exhibit C, TV Listings Guide for Trans-video, *available at* http://www.trans-video.net/channels.html (last visited May 15, 2012).

[14] *See* Declaration of Lesley Engle, attached hereto.

CONCLUSION

Since April 19, 2012, Trans-video has retransmitted WFFF's signal on its cable systems without Licensee's express, written consent. Trans-video therefore knowingly and willfully violated the Communications Act and the Commission's rules. Licensee requests that the Bureau promptly issue an order directing Trans-video to come into compliance with its obligations with respect to WFFF's signal on all of its cable systems and imposing such sanctions on Trans-video as the Bureau deems appropriate.

Respectfully submitted,

SMITH MEDIA LICENSE HOLDINGS, LLC

Robert J. Folliard, III

DOW LOHNES PLLC
1200 New Hampshire Ave., NW
Suite 800
Washington, DC 20036
202-776-2000

Its Attorney

May 17, 2012

Verification

To the best of my knowledge, information and belief formed after reasonable inquiry, this Enforcement Complaint is well grounded in fact and is warranted by existing law or a good faith argument for the extension, modification or reversal of existing law, and it is not interposed for any improper purpose.

Robert J. Folliard, III

May 17, 2012

Before the
FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON, D.C. 20554

In the Matter of	)
Trans-video Cable	)
Enforcement Complaint Concerning WFFF-TV, Burlington, VT	)

DECLARATION OF IAN GUTHRIE

1. My name is Ian Guthrie, and I am Vice President, CFO & Treasurer of Smith Media License Holdings, LLC.
2. I have reviewed the foregoing Enforcement Complaint and found the factual matters set forth therein to be true to the best of my knowledge and belief. In addition, to the best of my knowledge, information and belief formed after reasonable inquiry, the Enforcement Complaint is well grounded in fact and is warranted by existing law or a good faith argument for the extension, modification or reversal of existing law, and it is not interposed for any improper purpose. I declare under penalty of perjury that the foregoing is true and correct.

Ian Guthrie
Vice President, CFO & Treasurer
Smith Media License Holdings, LLC
1215 Cole St.
St. Louis, MO 63106

Dated: May 14, 2012

Before the
FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON, D.C. 20554

In the Matter of	)
Trans-video Cable	)
Enforcement Complaint Concerning WFFF-TV, Burlington, VT	)

DECLARATION OF LESLEY ENGLE

1. My name is Lesley Engle, and I serve as the News Manager for WFFF-TV ("WFFF").
2. I have read the foregoing Enforcement Complaint (the "Complaint"), and I am familiar with the contents thereof.
3. On April 19, 2012, I telephoned Trans-video Cable, on behalf of my grandmother, who lives in the Northfield, Vermont area.
4. I informed the Trans-video Cable telephone employee that I was concerned because I saw a posting on the Fox affiliates website saying Trans-video Cable would be dropping Fox programming. In response to my comment, the Trans-video Cable telephone employee said that they are not dropping Fox programming.
6. The Trans-video Cable telephone employee said that FOX44 (WFFF) is owned by a big company, who they pay per month, per subscriber and that this company is looking for a 700% increase. The Trans-video Cable telephone employee claimed that they have been trying to negotiate in good faith but that they are not budging from their position
8. I asked the Trans-video Cable telephone employee if the Fox programming was still on the air and was told that it was, and that Trans-video Cable has no intention of dropping it, indicating it will go to litigation.
9. I declare under penalty of perjury that the facts contained herein and within the foregoing Complaint are true and correct to the best of my knowledge, information, and belief formed after reasonable inquiry, that the Complaint is well grounded in fact, that it is warranted by existing law or a good-faith argument for the extension, modification or reversal of existing law, and that it is not interposed for any improper purpose.

Lesley Engle
News Manager, WFFF-TV
298 Mountain View Drive
Colchester, VT 05446
(802) 859-1344

Dated: May 14, 2012

Before the
FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON, D.C. 20554

In the Matter of	)
Trans-video Cable	)
Enforcement Complaint Concerning WFFF-TV, Burlington, VT	)

DECLARATION OF DAVID FREER

1. My name is David Freer, and I serve as an Engineer for WFFF-TV ("WFFF").
2. I have read the foregoing Enforcement Complaint (the "Complaint"), and I am familiar with the contents thereof.
3. On April 19, 2012, I went to the Depot Square Pizzeria LLC located at 40 Depot Sq #2, in Northfield, Vermont.
4. I asked an employee if they had Trans-Video cable service at the pizzeria and the employee confirmed that the pizzeria had Trans-Video cable. I asked if he could change the station channel to see if local broadcast stations were coming in over the television. I observed WFFF airing on Channel 12 on the television set located at the pizzeria.
5. On April 19 and 23, 2012, I went to the Launderama Laundromat on the corner of Water Street and Wall Street in Northfield, Vermont.
6. On both dates, I observed WFFF airing on Channel 12 on the television set located at the Laundromat.
7. On both occasions, I noted that on the Wall Street side of the building, visible from the sidewalk, was an interface box which distributes cable into the Laundromat which clearly read "Property of Trans-Video Cable TV.
8. I declare under penalty of perjury that the facts contained herein and within the foregoing Complaint are true and correct to the best of my knowledge, information, and belief formed after reasonable inquiry, that the Complaint is well grounded in fact, that it is warranted by existing law or a good-faith argument for the extension, modification or reversal of existing law, and that it is not interposed for any improper purpose.

David Freer
Engineer, WFFF-TV
298 Mountain View Drive
Colchester, VT 05446
(802) 859-1344

Dated: May 14, 2012

Before the
FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON, D.C. 20554

In the Matter of	)
Trans-video Cable	)
Enforcement Complaint Concerning WFFF-TV, Burlington, VT	)

DECLARATION OF KEN KASZUBOWSKI

1. My name is Ken Kaszubowski (Ken Kasz), and I serve as Director of Operations for WFFF-TV ("WFFF").
2. I have read the foregoing Enforcement Complaint (the "Complaint"), and I am familiar with the contents thereof.
3. On April 16, 2012, I advised Trans-video Cable ("Trans-video") that since the parties had not reached an agreement for carriage of WFFF, effective April 19, 2012, Trans-video would no longer have authority to retransmit the signal of WFFF.
4. I declare under penalty of perjury that the facts contained herein and within the foregoing Complaint are true and correct to the best of my knowledge, information, and belief formed after reasonable inquiry, that the Complaint is well grounded in fact, that it is warranted by existing law or a good-faith argument for the extension, modification or reversal of existing law, and that it is not interposed for any improper purpose.

Ken Kaszubowski (Ken Kasz)
Director of Operations, WFFF-TV
298 Mountain View Drive
Colchester, VT 05446
(802) 859-1314

Dated: May 14, 2012

Before the
FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON, D.C. 20554

In the Matter of	)
Trans-video Cable	)
Enforcement Complaint Concerning WFFF-TV, Burlington, VT	)

DECLARATION OF DANA NAHUMCK

1. My name is Dana Nahumck, and I am Director of Engineering for WFFF-TV ("WFFF").
2. I have read the foregoing Enforcement Complaint (the "Complaint"), and I am familiar with the contents thereof.
3. On May 1, 2012, at 12:25 p.m., I went to the Launderama Laundromat on the corner of Water Street and Wall Street in Northfield, Vermont.
4. I observed WFFF airing on Channel 12 on the television set located at the Laundromat.
5. I declare under penalty of perjury that the facts contained herein and within the foregoing Complaint are true and correct to the best of my knowledge, information, and belief formed after reasonable inquiry, that the Complaint is well grounded in fact, that it is warranted by existing law or a good-faith argument for the extension, modification or reversal of existing law, and that it is not interposed for any improper purpose.

Dana Nahumck
Director of Engineering, WFFF-TV
298 Mountain View Drive
Colchester, VT 05446
(802) 660-9333, ext. 117

Dated: May 14 2012

Before the
FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON, D.C. 20554

In the Matter of	)
Trans-video Cable	)
Enforcement Complaint Concerning WFFF-TV, Burlington, VT	)

DECLARATION OF ALEX PASTEWSKI

1. My name is Alex Pastewski, and I serve as a Senior Account Executive for WFFF-TV ("WFFF").
2. I have read the foregoing Enforcement Complaint (the "Complaint"), and I am familiar with the contents thereof.
3. On April 20, 2012, at 10:50 a.m., I went to the Launderama Laundromat on the corner of Water Street and Wall Street in Northfield, Vermont.
4. I observed WFFF airing on Channel 12 on the television set located at the Laundromat.
5. I was able to confirm it was WFFF because Channel 12 at the Laundromat was showing the WFFF regularly scheduled programming
6. The channel position for Channel 12 matches the WFFF channel position on Trans-video Cable, which is unique, as WFFF is not carried on that channel for any other transmission carrier (cable, satellite or broadcast).
7. I declare under penalty of perjury that the facts contained herein and within the foregoing Complaint are true and correct to the best of my knowledge, information, and belief formed after reasonable inquiry, that the Complaint is well grounded in fact, that it is warranted by existing law or a good-faith argument for the extension, modification or reversal of existing law, and that it is not interposed for any improper purpose.

Alex Pastewski
Senior Account Executive, WFFF-TV
298 Mountain View Drive
Colchester, VT 05446
(802) 660-9333

Dated: May 14, 2012

EXHIBIT A

2011 Retransmission Consent Election Letters

CABLE-TELCO ELECTION NOTICE

CALL LETTERS	COMMUNITY OF LICENSE	DMA TO WHICH NIELSEN MEDIA RESEARCH ASSIGNED STATION IN 2009-10 NSI
WFFF	BURLINGTON, VT / PLATTSBURGH, NY	BURLINGTON, PLATTSBURGH
DTV CHANNEL (OVER THE AIR)	PRIMARY CHANNEL (VIRTUAL CHANNEL, E.G., 15.1)	LICENSEE NAME
43	44.1	SMITH MEDIA LICENSE HOLDINGS, LLC

This Cable Election Notice is sent this 21st day of September 2011 via Certified Mail/Return Receipt Requested (Receipt Number 7007 0710 0000 4440 6835) to the following:

Operator: Transvideo
Address: 56 Depot Square, Unit 1
Northfield, VT 05663

With respect to all communities within the Station's "television market" (as defined in 47 C.F.R. § 76.55(e)) served by cable systems owned or managed by your company (including those listed in our current retransmission consent agreement and including those listed EXHIBIT A hereto) between January 1, 2012, and December 31, 2014, the Licensee elects the following status for the primary video stream of the Station's digital signal (licensee to check one box below):

☒ **retransmission consent.**

☐ **mandatory carriage ("must-carry")** on the following: (check one):

- ☐ The Station's PSIP major channel number ("virtual channel").
- ☐ The cable channel on which the Station was carried on July 19, 1985.
- ☐ The cable channel on which the Station was carried on January 1, 1992.

Further, we hereby notify you of our election not to renew, extend, or roll-over the term of any of retransmission consent agreement that may be in place between our companies at this time. For further information or to request consent to the retransmission of any program stream to which a "must-carry" election does not apply, please contact:

Name: Ian Guthrie
Address: Smith Media
1205 Cole Street
St, Louis, Missouri
Phone: 314-853-7736
Email: iguthrie@smithmediatv.com

The Licensee provides this Election Notice pursuant to 47 C.F.R. Section 76.64.

Signature: Victor V. Vatter
Name/Title: VP/Group Manager

CABLE-TELCO ELECTION NOTICE

Exhibit A

CALL LETTERS	COMMUNITY OF LICENSE	LICENSEE
WFFF	**BURLINGTON, VT / PLATTSBURGH, NY**	Smith Media License Holdings, LLC

Communities in the Station's television market that are covered by the Cable Election Notice to which this Exhibit A is attached:

Northfield, VT

SENDER: *COMPLETE THIS SECTION*

- Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

TransVIDEO
56 Depot Sq, Unit 1
Northfield, VT 05663

Attn: George Goodrich

COMPLETE THIS SECTION ON DELIVERY

A. Signature: [illegible] ☐ Agent ☐ Addressee

B. Received by (*Printed Name*): C. Date of Delivery: 9/22/11

D. Is delivery address different from item 1? ☐ Yes
If YES, enter delivery address below: ☐ No

3. Service Type
☒ Certified Mail ☐ Express Mail
☐ Registered ☐ Return Receipt for Merchandise
☐ Insured Mail ☐ C.O.D.

4. Restricted Delivery? (*Extra Fee*) ☐ Yes

2. Article Number (*Transfer from service label*): 7007 0710 0000 6660 6835

PS Form 3811, February 2004 Domestic Return Receipt 102595-02-M-1540

Important: Certified Mail ■ A tracking number and a unique

EXHIBIT B

Advance Notice of Copyright Infringement

ADVANCE NOTICE OF POTENTIAL INFRINGEMENT

April 19, 2012

VIA CERTIFIED MAIL (70070710000066606163)
VIA EMAIL (goodrich@trans-video.net)

George Goodrich
General Manager
Trans-video Cable
56 Depot Square
Northfield, VT 05663

Re: WFFF-TV Retransmission

Dear Mr. Goodrich:

Smith Media License Holdings, LLC ("Broadcaster") is the owner and operator of WFFF-TV, licensed to Burlington, VT/Plattsburgh, NY (the "Station"). We believe that Trans-video Cable has been retransmitting the signal of the Station after the expiration of the retransmission consent agreement and therefore without the express consent from Broadcaster required by federal law. We therefore are forced to send Trans-video Cable this Advance Notice of Copyright Infringement.

Quite simply, Trans-video Cable's continued retransmission of the Station's signals is illegal. By continuing to retransmit the Station without Broadcaster's "express consent," Trans-video Cable knowingly and willfully has violated the retransmission consent provisions of Section 325(b) of the Communications Act of 1934, as amended, and Section 76.64 of the FCC's rules. Furthermore, because Trans-video Cable's retransmission of the signal does not comply with the FCC's rules, such carriage does not qualify for the statutory cable retransmission copyright license under 17 U.S.C. Section 111. Accordingly, Trans-video Cable's carriage of Broadcaster's Station also constitutes a willful act of copyright infringement.

We hereby notify Trans-video Cable that Broadcaster will seek all remedies available at the Federal Communications Commission and in federal court, including, without limitation, statutory damages and recovery of attorneys' fees and costs. By providing Trans-video Cable with this Advance Notice of Potential Infringement, we establish, pursuant to 17 U.S.C. Section 411(b), our right as copyright owner of the Station's original programming to institute a cause of action for copyright infringement. In particular, we provide you with this notice of infringement

of Broadcaster's original programming aired, beginning on January 1, 2012, including all local news presentations.

Carriage of the Station's signal without consent is a serious violation of federal law and subjects Trans-video Cable to substantial liability under the Communications Act independent of any copyright liability. Indeed, the FCC recently declared that such illegal carriage could subject a cable operator to a potential forfeiture of $7,500 per day. *See Bailey Cable TV, Inc. Notice of Apparent Liability for Forfeiture*, 27 FCC Rcd. 2631 (Med. Bur. 2012). For your reference, I have attached to this correspondence a copy of the FCC's decision in *Bailey Cable*.

Broadcaster expressly reserves all of its rights in this matter including, without limitation, its rights to seek actual and punitive damages, injunctive relief, attorneys' fees and all other available legal and equitable remedies from the courts and the FCC.

Please direct all further communications about this matter *in writing only*.

Very truly yours,

Steve Doerr
Vice President and Group Manager –
New York/New England
Smith Media, LLC
WFFF-TV

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

In the Matter of	)	
	)	
Bailey Cable TV, Inc.	)	MB Docket No. 12-34
	)	CSR No. 8584-C
	)	NAL/Acct. No.: MB-201241410023
	)	FRN: 0011409034

NOTICE OF APPARENT LIABILITY FOR FORFEITURE

Adopted: March 16, 2012 **Released: March 16, 2012**

By the Chief, Media Bureau:

I. INTRODUCTION

1. In this Notice of Apparent Liability For Forfeiture ("*NAL*"), we find that Bailey Cable TV, Inc. ("Bailey") apparently willfully and repeatedly violated Section 325 of the Communications Act of 1934, as amended (the "Act"), and Section 76.64 of the Commission's rules, by retransmitting the signal of a broadcasting station without "the express authority" of the originating station.[1] Based upon our review of the facts, we find Bailey apparently liable for a monetary forfeiture in the amount of fifteen thousand dollars ($15,000).

II. BACKGROUND

2. Communications Corporation of America ("ComCorp") is the parent company of the licensee of full-power television station WGMB-TV, Baton Rouge, Louisiana. ComCorp filed a complaint with the Commission, alleging that Bailey retransmitted without consent the signal of WGMB-TV on its cable system serving St. Francisville, Louisiana; Angola, Louisiana; and certain unincorporated areas within West Feliciana Parish, Louisiana (the "Communities").[2]

3. Bailey's cable system serving the Communities is a multichannel video programming distributor ("MVPD"), and WGMB-TV is a broadcasting station within the Baton Rouge Designated Market Area ("DMA") served by Bailey.[3] For the 2012-2014 carriage cycle, for the Bailey cable system serving the Communities, ComCorp elected retransmission consent for WGMB-TV.[4] Although Bailey's retransmission consent agreement with ComCorp expired on December 31, 2011, Bailey continued

[1] 47 U.S.C. § 325(b)(1)(A); 47 C.F.R. § 76.64(a).

[2] *See* Enforcement Complaint Concerning WGMB-TV, Baton Rouge, Louisiana (dated Jan. 23, 2012) ("WGMB-TV Complaint"). Concurrently with this *NAL*, we are issuing a Notice of Apparent Liability For Forfeiture pertaining to a similar complaint filed by Knight Broadcasting of Baton Rouge License Corp. ("White Knight"), the licensee of full-power television station WVLA-TV, Baton Rouge, Louisiana, against Bailey. *See* Enforcement Complaint Concerning WVLA-TV, Baton Rouge, Louisiana (dated Jan. 25, 2012) ("WVLA-TV Complaint"). Bailey was formerly known as Audubon Cablevision. *See* WVLA-TV Complaint at 1.

[3] WGMB-TV Complaint at 2.

[4] *Id.* at 2-3 and Ex. A.

carrying WGMB-TV despite the absence of an extension or renewal agreement.[5] ComCorp informed Bailey, both before and after the expiration of the retransmission consent agreement, that Bailey was not permitted to retransmit WGMB-TV once the agreement expired.[6] ComCorp seeks an order directing Bailey to comply with the law and imposing appropriate sanctions for its knowing, deliberate, and continuing violations.[7]

4. In response, Bailey does not refute that it retransmitted WGMB-TV without express, written consent.[8] Rather, Bailey argues that it faced a "dramatic increase" in requested retransmission consent fees, and states that it receives the signal by antenna rather than satellite or the Internet.[9] Bailey claims that ComCorp is "using [the Commission] as a tool to negotiate a dramatic increase in rates" and it requests that the Commission require the fair negotiation of a reasonable rate.[10] On February 3, 2012, following a telephone conference with Commission staff and the parties, Bailey and ComCorp executed an agreement extending the term of their retransmission consent agreement.[11]

III. DISCUSSION

5. As described below, we conclude that Bailey is apparently liable for a forfeiture in the amount of fifteen thousand dollars ($15,000) for its apparent willful and repeated retransmission of WGMB-TV's signal without the express authority of the originating station. Under Section 503(b)(1) of the Act, 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.[12] 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

[5] *Id.* at 3. ComCorp claims that it "made every effort to extend the Agreement with Bailey, but Bailey refused to engage in serious negotiations." *Id.*

[6] *Id.* at 3-4. ComCorp alleges that its designated negotiator contacted Bailey on December 30, 2011, "and advised it that at midnight on December 31, 2011, the Agreement would expire and Bailey would no longer have authority to retransmit the programming for WGMB-TV." *Id.* at 3. On January 3, 2012, ComCorp faxed and e-mailed Bailey a letter stating that its continuing carriage of WGMB-TV was in violation of federal law. *Id.* at 4 and Ex. C.

[7] *Id.* at 1.

[8] Bailey Cable TV, Inc. Answer to Enforcement Complaint Concerning WVLA-TV, Baton Rouge, Louisiana (dated Jan. 30, 2012) ("Bailey Answer"). Bailey informed the Commission that it did not intend to file a separate answer to the WGMB-TV Complaint, and that the same arguments would apply. During a telephone conference with Commission staff, ComCorp and White Knight on February 3, 2012, Bailey made the same arguments with regard to both stations. Accordingly, we will treat the Bailey Answer as pertaining to the WGMB-TV Complaint as well as the WVLA-TV Complaint, for purposes of this *NAL*.

[9] *Id.* at 1. Bailey also claims that it erroneously received a contract for the Hartford-New Haven area that covered all broadcast networks. *See id.* at 1 and Ex. A. Given that the contract clearly labeled two fictitious stations in the Hartford-New Haven DMA as examples, this argument fails. *See id.* at Ex. A.

[10] *See id.* at 1.

[11] *See* Letter from John R. Feore, Jr. and Robert J. Folliard, III, Counsel to Communications Corporation of America, to Steven A. Broeckaert, Senior Deputy Chief, Policy Division, Media Bureau, at 1 (Feb. 28, 2012). Bailey erroneously indicated that the date of the telephone conference was February 2, 2012. *See* Letter from David A. Bailey, Bailey Cable TV, Inc., to Steven A. Broeckaert, Senior Deputy Chief, Policy Division, Media Bureau (Feb. 27, 2012).

[12] *See* 47 U.S.C. § 503(b)(1)(B); 47 C.F.R. § 1.80(a)(2).

law.[13] 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,[14] and the Commission has so interpreted the term in the Section 503(b) context.[15] The Commission may also assess a forfeiture for violations that are merely repeated and not willful.[16] "Repeated" means that the act was committed or omitted more than once or lasts more than one day.[17] In order to impose a forfeiture, the Commission must issue a notice of apparent liability, the notice must be received, and the person against whom the notice has been issued must have an opportunity to show, in writing, why no such penalty should be imposed or why it should be reduced and must include a detailed factual statement and pertinent documents and affidavits as support.[18] The Commission will then issue a forfeiture if it finds, by a preponderance of the evidence, that the person has willfully or repeatedly violated the Act or a Commission rule.[19]

6. Section 325 of the Act requires cable systems and other MVPDs to obtain "the express authority of the originating station" to retransmit a broadcasting station's signal.[20] This requirement is codified in Section 76.64 of the Commission's rules, which further requires retransmission consent agreements to be in writing and to "specify the extent of the consent being granted."[21] The Commission previously stated that if an MVPD retransmits a television signal without consent, Commission intervention would be consistent with precedent and "properly documented retransmission of a television signal without consent would be grounds for imposition of a forfeiture."[22]

7. We find that Bailey apparently violated Section 325 of the Act and Section 76.64 of the Commission's rules by retransmitting WGMB-TV's signal without the required consent. Bailey does not dispute ComCorp's allegations that it retransmitted WGMB-TV's signal despite the expiration of the retransmission consent agreement and the failure to enter into an extension or renewal agreement.[23] Bailey objects to the increase in the retransmission consent fees requested by ComCorp,[24] but such an increase does not justify an MVPD's retransmission of a broadcasting station's signal without the originating station's express authority. We also find irrelevant to this matter Bailey's statement that it

[13] 47 U.S.C. § 312(f)(1).

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

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

[16] *See, e.g., Callais Cablevision, Inc., Grand Isle, Louisiana*, Notice of Apparent Liability for Monetary Forfeiture, 16 FCC Rcd 1359, 1362, ¶ 10 (2001) ("*Callais Cablevision, Inc.*") (issuing a Notice of Apparent Liability for, *inter alia*, a cable television operator's repeated signal leakage).

[17] *Southern California Broadcasting Co.*, 6 FCC Rcd at 4388, ¶ 5; *Callais Cablevision, Inc.*, 16 FCC Rcd at 1362, ¶ 9.

[18] *See* 47 U.S.C. § 503(b); 47 C.F.R. § 1.80(f).

[19] *See, e.g., SBC Communications, Inc.*, Forfeiture Order, 17 FCC Rcd 7589, 7591, ¶ 4 (2002) (forfeiture paid).

[20] 47 U.S.C. § 325(b)(1)(A). Although there are certain exceptions to this requirement, including for local commercial stations that have elected to assert their mandatory carriage rights, no exceptions apply to the present situation. *See* WGMB-TV Complaint at 2 n. 1; 47 U.S.C. §§ 325(b)(1)(B), 534(b).

[21] 47 C.F.R. § 76.64(a), (j).

[22] *Implementation of the Cable Television Consumer Protection and Competition Act of 1992, Broadcast Signal Carriage Issues*, Report and Order, 8 FCC Rcd 2965, 3005, ¶ 175 (1993).

[23] Bailey Answer.

[24] *See id.* at 1.

receives the signal "free over the air to antenna receivers."[25] We emphasize that the cable operator has discretion to decide whether to enter into a retransmission consent agreement, but in the absence of such an agreement, the Act and the Commission's rules prohibit retransmission of the station's signal. Although ComCorp informed Bailey that its retransmission of WGMB-TV was a violation of federal law,[26] Bailey continued impermissibly retransmitting the station's signal from January 1, 2012 until February 3, 2012.

8. Based upon the evidence before us, and in view of the applicable law and Commission precedent, we find that Bailey apparently willfully and repeatedly violated Section 325 of the Act and Section 76.64 of the Commission's rules. The Commission's *Forfeiture Policy Statement* and Section 1.80 of the Commission's rules specify a base forfeiture amount of seven thousand five hundred dollars ($7,500) for each violation of the cable broadcast carriage rules.[27] In assessing the monetary forfeiture amount, we must take into account the statutory factors set forth in Section 503(b)(2)(E) of the Act and Section 1.80 of the Commission's rules,[28] which include 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 other such matters as justice may require.[29] The base forfeiture amount for the present matter would be calculated as follows:

$7,500 base forfeiture x 34 days = $255,000 total base forfeiture

During our investigation, Bailey submitted financial information which, after our review, establishes that a $255,000 forfeiture would place the company in extreme financial hardship, and would represent a significant percentage of Bailey's gross revenues. Accordingly, we act within our discretion to reduce the proposed forfeiture. With regard to an individual's or entity's inability to pay the forfeiture, the Commission has determined that, in general, gross revenues are the best indicator of an inability to pay a forfeiture.[30] Having reviewed Bailey's submitted documentation (including gross revenue figures), and after applying the *Forfeiture Policy Statement*, Section 1.80 of the rules, and the statutory factors to the instant case, we conclude that Bailey is apparently liable for a forfeiture in the amount of fifteen thousand dollars ($15,000). We caution, however, that a party's inability to pay is only one factor in our forfeiture calculation analysis, and is not dispositive.[31] We have previously rejected inability to pay claims in cases

[25] *See id.*

[26] WGMB-TV Complaint at 3-4 and Ex. C.

[27] *See The Commission's Forfeiture Policy Statement and Amendment of Section 1.80 of the Rules to Incorporate the Forfeiture Guidelines*, Report and Order, 12 FCC Rcd 17087, 17115 (1997), *recons. denied* 15 FCC Rcd 303 (1999) ("*Forfeiture Policy Statement*"); 47 C.F.R. § 1.80(b).

[28] *See* 47 U.S.C. § 503(b)(2)(E); 47 C.F.R § 1.80(b)(4).

[29] *See id.*

[30] *See PJB Communications of Virginia, Inc.*, Forfeiture Order, 7 FCC Rcd 2088, 2089 (1992) (forfeiture not deemed excessive where it represented approximately 2.02 percent of the violator's gross revenues); *Local Long Distance, Inc.*, Forfeiture Order, 15 FCC Rcd 24385 (2000) (forfeiture not deemed excessive where it represented approximately 7.9 percent of the violator's gross revenues); *Hoosier Broadcasting Corporation*, Forfeiture Order, 15 FCC Rcd 8640 (2002) (forfeiture not deemed excessive where it represented approximately 7.6 percent of the violator's gross revenues).

[31] *See* 47 U.S.C. § 503(b)(2)(E) (requiring Commission to take into account 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).

of repeated or otherwise egregious violations.[32] Therefore, future violations of this kind may result in significantly higher forfeitures that may not be reduced due to Bailey's financial circumstances.

IV. ORDERING CLAUSES

9. **ACCORDINGLY, IT IS ORDERED**, pursuant to Section 503(b) of the Act,[33] and Sections 0.61, 0.283, and 1.80 of the Commission's rules,[34] that Bailey Cable TV, Inc. is hereby **NOTIFIED** of its **APPARENT LIABILITY FOR FORFEITURE** in the amount of fifteen thousand dollars ($15,000) for apparently willfully and repeatedly violating Section 325 of the Communications Act of 1934, as amended, and Section 76.64 of the Commission's rules.

10. **IT IS FURTHER ORDERED**, pursuant to Section 1.80 of the Commission's rules, that within thirty (30) days of the release of this *NAL*, Bailey Cable TV, Inc. **SHALL PAY** the full amount of the proposed forfeiture or **SHALL FILE** a written statement seeking reduction or cancellation of the proposed forfeiture, including a detailed factual statement in support of its request for reduction or cancellation of the proposed forfeiture, and supported by pertinent documents and affidavits.

11. Payment of the forfeiture must be made by check or similar instrument, payable to the order of the Federal Communications Commission. The payment must include the NAL/Account number and FRN referenced above. Payment by check or money order may be mailed to Federal Communications Commission, 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, Missouri 63101. Payment by wire transfer may be made to ABA Number 021030004, receiving bank TREAS/NYC, and account number 27000001. For payment by credit card, an FCC Form 159 (Remittance Advice) must be submitted. When 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). Requests for payment of the full amount under an installment plan should be sent to: Chief Financial Officer -- Financial Operations, Federal Communications Commission, 445 12th Street, S.W., Room 1-A625, Washington, D.C. 20554. Please contact the Financial Operations Group Help Desk at 1-877-480-3201 or Email: ARINQUIRIES@fcc.gov with any questions regarding payment procedures. Bailey shall also send electronic notification on the date said payment is made to Diana.Sokolow@fcc.gov.

12. The response, if any, must be mailed to Diana Sokolow, Policy Division, Media Bureau, Federal Communications Commission, 445 12th Street, SW, Washington, D.C. 20554, and **SHALL INCLUDE** the NAL/Acct. number referenced above. In addition, to the extent practicable, a copy of the response, if any, should also be transmitted via e-mail to Diana.Sokolow@fcc.gov.

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[32] *Kevin W. Bondy*, Forfeiture Order, 26 FCC Rcd 7840 (Enf. Bur., Western Region 2011) (holding that violator's repeated acts of malicious and intentional interference outweigh evidence concerning his ability to pay); *Hodson Broadcasting Corp.*, Forfeiture Order, 24 FCC Rcd 13699 (Enf. Bur. 2009) (holding that permittee's continued operation at variance with its construction permit constituted an intentional and continuous violation, which outweighed permittee's evidence concerning its ability to pay the proposed forfeitures).

[33] *See* 47 U.S.C. § 503(b).

[34] *See* 47 C.F.R. §§ 0.61, 0.283, and 1.80.

13. **IT IS FURTHER ORDERED** that the complaint in this proceeding **IS GRANTED** to the extent indicated herein, and the complaint proceeding **IS HEREBY TERMINATED.**[35]

14. **IT IS FURTHER ORDERED** that a copy of this *NAL* shall be sent, by First Class Mail and Certified Mail-Return Receipt Requested, to David A. Bailey, Bailey Cable TV, Inc., 807 Church Street, Port Gibson, MS 39150.

FEDERAL COMMUNICATIONS COMMISSION

William T. Lake
Chief
Media Bureau

[35] For purposes of the forfeiture proceeding initiated by this *NAL*, Bailey Cable TV, Inc. shall be the only party to this proceeding.

FOX 44

WFFF-TV
298 Mountain View Drive
Colchester, VT 05446

Transvideo
56 Depot Square
Unit 1
Northfield, VT 05663

Attn: George Goodrich

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Street, Apt. No.; or PO Box No.: Transvideo 56 Depot Square Unit 1
City, State, ZIP+4: Northfield, VT 05663

PS Form 3800, August 2006 See Reverse for Instructions

7007 0710 0000 6660 6163
7007 0710 0000 6660 6163

SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:
Attn: George Goodrich
Transvideo
56 Depot Square
Unit 1
Northfield, VT 05663

COMPLETE THIS SECTION ON DELIVERY

A. Signature
X
☐ Agent
☐ Addressee

B. Received by (Printed Name)

C. Date of Delivery

D. Is delivery address different from item 1? ☐ Yes
If YES, enter delivery address below: ☐ No

3. Service Type
☒ Certified Mail ☐ Express Mail
☐ Registered ☐ Return Receipt for Merchandise
☐ Insured Mail ☐ C.O.D.

4. Restricted Delivery? (Extra Fee) ☐ Yes

2. Article Number (Transfer from service label) 7007 0710 0000 6660 6163

PS Form 3811, February 2004 Domestic Return Receipt 102595-02-M-1540

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1000

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WINOOSKI,VT
05404
APR 19, '12
AMOUNT
$5.95
00085327-04

RETURN RECEIPT
REQUESTED

Transvideo
56 Depot Square
Unit 1
Northf

Refused

NIXIE 050 DC 1 00 04/21/12
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REFUSED
UNABLE TO FORWARD
BC: 05446595598 *2153-02133-21-11

Attn: Greg

05446-0555

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70070710000066006163	First-Class Mail®	Delivered	April 23, 2012, 4:12 pm	COLCHESTER, VT 05446	Expected Delivery By: April 20, 2012 Certified Mail™ Return Receipt
		Processed through USPS Sort Facility	April 21, 2012, 3:53 pm	WHITE RIVER JUNCTION, VT 05001	
		Depart USPS Sort Facility	April 21, 2012	WHITE RIVER JUNCTION, VT 05001	
		Processed at USPS Origin Sort Facility	April 21, 2012, 5:54 am	WHITE RIVER JUNCTION, VT 05001	
		Refused	April 20, 2012, 9:13 am	NORTHFIELD, VT 05663	
		Arrival at Unit	April 20, 2012, 6:57 am	NORTHFIELD, VT 05663	
		Dispatched to Sort Facility	April 19, 2012, 5:43 pm	WINOOSKI, VT 05404	
		Acceptance	April 19, 2012, 4:46 pm	WINOOSKI, VT 05404	

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City, State, ZIP+4: Northfield, VT 05663

PS Form 3800, August 2006 See Reverse for Instructions

(WFFF)

Exhibit C

Trans-video Cable TV Channel Lineup (as of 5-15-12)

- Dependable, personal service
- Competitive rates and packages
- No contracts or commitments — ever
- Three generations of family ownership

Cable TV Channel Line-up

Effective January 2012 and subject to change.

Local digital simulcast channels noted in blue. High-Definition channels are noted in red (and will require an HD-compatible television).

Basic Cable

2	Home & Garden TV (HGTV)
3	WCAX (CBS) Burlington, VT
3.1	WCAX (CBS) HD simulcast
3.2	WCAX (CBS) WCAXtra
4	WVNY (ABC) Burlington, VT
22.1	WVNY (ABC) HD simulcast
5	WPTZ (NBC) Plattsburg, NY
5.1	WPTZ (NBC) HD simulcast

5.2 WPTZ (NBC) THIS-TV
6 CBC Montreal
7 Community Channel
8 Turner Broadcasting (TBS)
9 Animal Planet
10 Home Shopping Network
11 VPT (PBS) Burlington, VT
33.1 VPT (PBS) HD simulcast
33.2 VPT (PBS) SD simulcast
33.3 VPT (PBS) Create
33.4 VPT (PBS) World
12 WFFF (FOX) Burlington, VT
44.1 WFFF (FOX) HD simulcast
44.2 WFFF (FOX) CW Network
13 The Learning Channel
14 Common View
15 Discovery
16 Travel Channel

Cable Plus

17 TV Guide
18 WSBK Boston
19 WPIX New York, NY
20 WGN Chicago
21 Discovery Health
22 ABC Family
23 Cable Network News (CNN)
24 FOX News
25 ESPN Classic
26 ESPN
27 ESPN 2
28 NESN
29 Comcast Sports Network NE
30 American Movie Classics (AMC)
31 Turner Classic Movies (TCM)
32 Lifetime Movie Network

33 Nickelodeon
34 Cartoon Network
35 Disney
36 Music Television (MTV)
37 VH-1
38 Country Music Television
39 TV Land
40 CNBC
41 Lifetime
42 USA Network
43 History
44 Arts & Entertainment (A&E)
45 Bravo
46 TNT
47 The Weather Channel
48 E! Entertainment
49 Sci Fi Channel
50 Tru-TV
51 Comedy Central
52 Food Network
53 SPEED
54 FX
55 Spike
56 Women's Entertainment (WE)
57 NBC Sports Net
58 National Geographic
59 Hallmark
76 Outdoor Channel
78 QVC

Digital Cable

100 Science Channel
101 Planet Green
103 OWN
105 The HUB
106 PBS Kids Sprout

107 Nick Jr.
108 Nick Toons
109 Disney XD
111 TeenNick
112 RFD-TV
114 CLOO
115 Investigative Discovery
116 Military Channel
117 History
118 History International
119 Biography
120 G4
125 Arts & Entertainment (A&E)
127 Chiller
128 FOX Movie Channel
129 Nat Geo Wild
130 FOX Soccer
132 ESPN News
133 ESPN2
134 ESPNU
135 Versus
136 HRTV
137 ION
138 Golf
139 Sportsman's Channel
140 Fit TV
145 Do it Yourself
146 Cooking Channel
147 E! Style
150 BBC America
151 Smithsonian Channel
152 MSNBC
155 MTV2
156 MTV Hits
157 GAC
160 VH-1 Classic Rock
161 VH-1 Soul
162 Fuse

168 Pure Country (CMT)
170 Turner Classic Movies (TCM)
171 Sundance
172 Independent Film Channel
173 Halogen
174 Lifetime Movie
175 Oxygen
176 Fox Business Channel (FBC)
178 Trinity Broadcasting
186 Game Show Network (GSN)
190 C-Span
191 C-Span2
300 A & E HD
301 Velocity
302 History HD
310 HGTV HD
311 Food Network HD
315 National Geographic HD
320 STARZ HD
321 Universal HD
325 NESN HD
326 ESPN HD
327 ESPN2 HD
330 WCAX HD
331 WPTZ HD
332 WFFF HD
333 WVNY HD
334 WVPT HD

Digital Music

901 DMX-Beautiful Instruments
902 DMX-Jazz Vocal Blend
903 DMX-Hottest Hits
904 DMX-Modern Country
905 DMX-Alt Rock
906 DMX-Adult Contemporary

907 DMX-Lite Classical
908 DMX-Rock & Roll Oldies
909 DMX-Classic Rock
910 DMX-Urban Beat
911 DMX-Urban Adult Contemporary
912 DMX-Rap
913 DMX-Jazz
914 DMX-Blues
915 DMX-Gospel
916 DMX-Classical
917 DMX-Subterranean
918 DMX-Symphonic
919 DMX-Coffeehouse Rock
920 DMX-Dance
921 DMX-Contemporary Christian
922 DMX-Album Rock
923 DMX-Hard Rock
924 DMX-80's Hits
925 DMX-70's Hits
926 DMX-Classic R & B
927 DMX-Traditional Country
928 DMX-Soft Hits
929 DMX-Retro Disco
930 DMX-Groove Lounge
931 DMX-Big Band/Swing
932 DMX-Smooth Jazz
933 DMX-New Age
934 DMX-Holidays & Happenings
935 DMX-Great Standards
936 DMX-Malt Shop Oldies
937 DMX-Reggae
938 DMX-Children's

Movie Channels

200 HBO	HBO
201 HBO	HBO 2

202	HBO	HBO Signature
203	HBO	HBO Zone
204	HBO	HBO Comedy
205	HBO	HBO Family
220	Cinemax	Cinemax
221	Cinemax	More Max
222	Cinemax	Thriller Max
223	Cinemax	Action Max
230	Showtime/TMC/FLIX	Showtime
231	Showtime/TMC/FLIX	Showtime 2
232	Showtime/TMC/FLIX	Showtime Next
233	Showtime/TMC/FLIX	Showtime Showcase
234	Showtime/TMC/FLIX	Showtime Extreme
235	Showtime/TMC/FLIX	Showtime Women
236	Showtime/TMC/FLIX	Showtime Family Zone
250	Showtime/TMC/FLIX	The Movie Channel
251	Showtime/TMC/FLIX	The Movie Channel XTRA
255	Showtime/TMC/FLIX	FLIX
260	Starz/Encore	Starz
261	Starz/Encore	Starz Cinema
262	Starz/Encore	Starz Edge
263	Starz/Encore	Starz Kids & Family
264	Starz/Encore	Starz Comedy
280	Starz/Encore	Encore
281	Starz/Encore	Encore Love
282	Starz/Encore	Encore Drama
283	Starz/Encore	Encore Action
284	Starz/Encore	Encore Mystery
285	Starz/Encore	Encore Westerns
286	Starz/Encore	Encore WAM!
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CERTIFICATE OF SERVICE

I certify that on this 17th day of May, 2012, I caused the foregoing Enforcement Complaint to be served by email and first-class mail where indicated on the following:

William T. Lake
Chief, Media Bureau
Federal Communications Commission
445 12th Street, S.W.
Washington, D.C. 20554

Michelle Carey
Deputy Chief, Media Bureau
Federal Communications Commission
445 12th Street, S.W.
Washington, D.C. 20554

Mary Beth Murphy
Chief, Policy Division, Media Bureau
Federal Communications Commission
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Nancy Murphy
Associate Chief, Media Bureau
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Steven A. Broeckaert
Deputy Chief, Policy Division, Media Bureau
Federal Communications Commission
445 12th Street, S.W.
Washington, D.C. 20554

* also via first-class mail

Rayya Khalaf