

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

In the Matter of)	
)	
Cebridge Acquisition, LP)	File No.: EB-11-DL-0078
)	NAL/Acct. No.: 201232500007
Honey Grove, Texas)	FRN: 0014367650
)	System ID: 012049

NOTICE OF APPARENT LIABILITY FOR FORFEITURE

Adopted: April 17, 2012

Released: April 17, 2012

By the District Director, Dallas Office, South Central Region, Enforcement Bureau:

I. INTRODUCTION

1. In this Notice of Apparent Liability for Forfeiture (NAL), we find that Cebridge Acquisition, LP (Cebridge), operator of the cable television system in Honey Grove, Texas, apparently willfully violated Sections 76.605(a)(12) and 76.611(a)(1) of the Commission's rules (Rules),¹ by failing to prevent excessive signal leakage in the Honey Grove cable system. We conclude that Cebridge is apparently liable for a forfeiture in the amount of eight thousand dollars (\$8,000).

II. BACKGROUND

2. On September 15, 2011, an agent from the Dallas Office of the Enforcement Bureau (Dallas Office) inspected the Honey Grove cable system and observed six leaks on the frequency 121.2625 MHz. All six leaks measured over 287 microvolts per meter ($\mu\text{V}/\text{m}$) at a distance of at least 3 meters; the highest leak measured at 2211.69 $\mu\text{V}/\text{m}$. The Cumulative Leakage Index (CLI) for all six of the measured leaks was calculated at 67.717.

3. On September 16, 2011, the Dallas Office informed Cebridge that the Honey Grove system failed CLI testing and ordered Cebridge to shutdown until the signal leakage was eliminated.² On September 27, 2011, Cebridge informed the Dallas Office via telephone that it had repaired all of the leaks found by the Dallas Office on September 15th and had brought the system's CLI into compliance.

III. DISCUSSION

4. Section 503(b) of the Communications Act of 1934, as amended (Act), provides that any person who willfully or repeatedly fails to comply substantially with the terms and conditions of any license, or willfully or repeatedly fails to comply with any of the provisions of the Act or of any rule, regulation, or order issued by the Commission thereunder, shall be liable for a forfeiture penalty.³ Section 312(f)(1) of the

¹ 47 C.F.R. §§ 76.605(a)(12), 76.611(a)(1).

² Section 76.613 of the Rules authorizes representatives of the Commission's local field offices to direct cable operators to suspend operations immediately in the event of harmful interference to radio communications involving the safety of life and protection of property, until such interference has been eliminated. 47 C.F.R. § 76.613.

³ 47 U.S.C. § 503(b).

Act defines “willful” as the “conscious and deliberate commission or omission of [any] act, irrespective of any intent to violate” the law.⁴ 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,⁵ and the Commission has so interpreted the term in the Section 503(b) context.⁶ The Commission may also assess a forfeiture for violations that are merely repeated, and not willful.⁷ The term “repeated” means the commission or omission of such act more than once or for more than one day.⁸

A. Failure to Prevent Excessive Cable Signal Leakage

5. Protecting the aeronautical frequencies from harmful interference is of paramount importance.⁹ To this end, the Commission has established cable signal leakage rules to control emissions that could cause cable systems to interfere with aviation frequencies.¹⁰ The Commission determined the tolerable levels of unwanted signals on the aeronautical frequencies in two ways. First, leakage at any given point must not exceed 20 $\mu\text{V}/\text{m}$.¹¹ Second, cable systems must meet basic signal leakage performance criteria as a prerequisite for operation on aeronautical frequencies. This is referred to as the system’s cumulative leakage index or “CLI.” Signal leakage levels that exceed these aforementioned thresholds are considered harmful interference. The Commission requires that each system annually measure its CLI (10 log I_{∞}) to demonstrate that any signal leakage is within permissible levels (*i.e.*, a CLI of less than 64),¹² the results of which must be reported to Commission.¹³ The rules also require cable

⁴ 47 U.S.C. § 312(f)(1).

⁵ H.R. Rep. No. 97-765, 97th Cong. 2d Sess. 51 (1982) (“This provision [inserted in Section 312] defines the terms ‘willful’ and ‘repeated’ for purposes of section 312, and for any other relevant section of the act (e.g., Section 503) As defined[,] . . . ‘willful’ means that the licensee knew that he was doing the act in question, regardless of whether there was an intent to violate the law. ‘Repeated’ means more than once, or where the act is continuous, for more than one day. Whether an act is considered to be ‘continuous’ would depend upon the circumstances in each case. The definitions are intended primarily to clarify the language in Sections 312 and 503, and are consistent with the Commission’s application of those terms . . .”).

⁶ See, e.g., *Application for Review of Southern California Broadcasting Co.*, Memorandum Opinion and Order, 6 FCC Rcd 4387, 4388 (1991), *recons. denied*, 7 FCC Rcd 3454 (1992).

⁷ See, e.g., *Callais Cablevision, Inc.*, Notice of Apparent Liability for Monetary Forfeiture, 16 FCC Rcd 1359, 1362, para. 10 (2001) (*Callais Cablevision, Inc.*) (proposing a forfeiture for, *inter alia*, a cable television operator’s repeated signal leakage).

⁸ Section 312(f)(2) of the Act, 47 U.S.C. § 312(f)(2), which also applies to violations for which forfeitures are assessed under Section 503(b) 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.” See *Callais Cablevision, Inc.*, 16 FCC Rcd at 1362.

⁹ The aeronautical bands are 108-137 MHz and 225-400 MHz. These frequencies encompass both radionavigation frequencies, 108–118 MHz and 328.6–335.4 MHz, and communications frequencies, 118–137 MHz, 225–328.6 MHz, and 335.4–400 MHz. The international distress and calling frequencies, 121.5 MHz, 156.8 MHz, and 243 MHz, receive heightened protection. See 47 C.F.R. § 76.616. These frequencies are critical for Search and Rescue Operations, including for use by Emergency Locator Transmitters on planes and Emergency Position Indicating Radio Beacons on boats. See generally 47 C.F.R. Part 80, Subpart V and 47 C.F.R. §§ 87.193–87.199. Harmful interference includes any interference that “endangers the functioning of a radionavigation service or of other safety services.” See 47 C.F.R. §§ 2.1, 76.613(a). See, e.g., *Callais Cablevision, Inc.*, 16 FCC Rcd 1359 (2001).

¹⁰ See 47 C.F.R. §§ 76.601-76.617. See also *Amendment of Part 76 of the Commission’s Rules to Add Frequency Channelling Requirements and Restrictions and to Require Monitoring for Signal Leakage from Cable Television Systems*, Memorandum Opinion and Order, 101 FCC 2d 117, 123, para. 14 (1985).

¹¹ 47 C.F.R. § 76.605(a)(12).

¹² 47 C.F.R. § 76.611(a).

operators to provide for a program of regular monitoring of their systems to detect leaks.¹⁴ The cable system operator must promptly take measures to eliminate any harmful interference it causes,¹⁵ and must maintain a log for two years showing the date and location of each leakage source and the date on which the leakage was repaired.¹⁶

6. As discussed above, Section 76.605(a)(12) of the Rules states that signal leakage from a cable television system shall be limited to 20 $\mu\text{V}/\text{m}$ at 3 meters,¹⁷ and Section 76.611(a)(1) of the Rules states that no cable television system shall provide service in the aeronautical radio bands unless the system's CLI is less than 64.¹⁸ On September 15, 2011, agents from the Dallas Office measured six leaks on aeronautical frequencies that exceeded 287 $\mu\text{V}/\text{m}$ at 3 meters in the Honey Grove cable system, which translates into a CLI of 67.717.¹⁹ Thus, based on the evidence before us, we find that Cebridge apparently willfully violated Sections 76.605(a)(12) and 76.611(a)(1) of the Rules by operating the Honey Grove cable system with excessive signal leakage.

B. Proposed Forfeiture

7. Pursuant to the Commission's *Forfeiture Policy Statement* and Section 1.80 of the Rules, the base forfeiture for violation of rules relating to distress and safety frequencies is \$8,000.²⁰ Cable signal leakage in the aeronautical bands constitutes harmful interference to distress and safety frequencies.²¹ In assessing the monetary forfeiture amount, we must also take into account the statutory factors set forth in Section 503(b)(2)(E) of the Act, which include the nature, circumstances, extent, and gravity of the violations, 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.²² Applying the *Forfeiture Policy Statement*, Section 1.80 of the Rules, and the statutory factors to the instant case, we conclude that Cebridge is apparently liable for a forfeiture in the amount of \$8,000.

IV. ORDERING CLAUSES

8. Accordingly, **IT IS ORDERED** that, pursuant to Section 503(b) of the Communications Act of 1934, as amended, and Sections 0.111, 0.204, 0.311, 0.314 and 1.80 of the Commission's rules, Cebridge Acquisition, LP is hereby **NOTIFIED** of this **APPARENT LIABILITY FOR A FORFEITURE** in the amount of eight thousand dollars (\$8,000) for violations of Sections 76.605(a)(12) and 76.611(a)(1) of the Commission's rules.²³

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¹³ 47 C.F.R. § 76.615(b)(7).

¹⁴ 47 C.F.R. § 76.614.

¹⁵ 47 C.F.R. § 76.613(b).

¹⁶ 47 C.F.R. § 76.1706.

¹⁷ See 47 C.F.R. § 76.605(a)(12).

¹⁸ See 47 C.F.R. § 76.611(a)(1).

¹⁹ As previously noted, on September 27, 2011, Cebridge informed the Dallas Office that these leaks were corrected and the cable system's CLI complied with the Rules.

²⁰ 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 (1997) (*Forfeiture Policy Statement*), recons. denied, 15 FCC Rcd 303 (1999); 47 C.F.R. § 1.80.

²¹ See 47 C.F.R. §§ 2.1, 76.613(a).

²² 47 U.S.C. § 503(b)(2)(E).

²³ 47 U.S.C. § 503(b); 47 C.F.R. §§ 0.111, 0.204, 0.311, 0.314, 1.80, 76.605(a)(12), 76.611(a)(1).

9. **IT IS FURTHER ORDERED** that, pursuant to Section 1.80 of the Commission's rules, within thirty (30) calendar days of the release date of this Notice of Apparent Liability for Forfeiture, Cebridge Acquisition, LP **SHALL PAY** the full amount of the proposed forfeiture or **SHALL FILE** a written statement seeking reduction or cancellation of the proposed forfeiture.

10. Payment of the forfeiture must be made by credit card, check or similar instrument, payable to the order of the Federal Communications Commission. The payment must include the 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, MO 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 full payment under an installment plan should be sent to: Chief Financial Officer -- Financial Operations, 445 12th Street, S.W., Room 1-A625, Washington, D.C. 20554.²⁴ If you have questions regarding payment procedures, please contact the Financial Operations Group Help Desk at 1-877-480-3201 or Email: ARINQUIRIES@fcc.gov. Cebridge Acquisition, LP shall also send electronic notification on the date said payment is made to SCR-Response@fcc.gov.

11. The written statement seeking reduction or cancellation of the proposed forfeiture, if any, must include a detailed factual statement supported by appropriate documentation and affidavits pursuant to Sections 1.80(f)(3) and 1.16 of the Rules.²⁵ Mail the written statement to Federal Communications Commission, Enforcement Bureau, South Central Region, Dallas Office, 9330 LBJ Freeway, Suite 1170, Dallas, TX 75243, and include the NAL/Acct. No. referenced in the caption. The statement should also be emailed to SCR-Response@fcc.gov.

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

²⁴ See 47 C.F.R. § 1.1914.

²⁵ 47 C.F.R. §§ 1.16, 1.80(f).

13. **IT IS FURTHER ORDERED** that a copy of this Notice of Apparent Liability for Forfeiture shall be sent by both Certified Mail, Return Receipt Requested, and regular mail, to Cebridge Acquisition, LP at 12444 Powerscourt Drive, Suite 450, St. Louis, MO 63131.

FEDERAL COMMUNICATIONS COMMISSION

James D. Wells
District Director
Dallas Office
South Central Region
Enforcement Bureau