

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

In the Matter of)
D.T.V., LLC) File No.: EB-FIELDNER-13-00006557
Licensee of Station WPHA-CD) NAL/Acct. No.: 201432400003
Philadelphia, Pennsylvania) FRN: 0013224662
) Facility ID No.: 72278

NOTICE OF APPARENT LIABILITY FOR FORFEITURE

Adopted: April 25, 2014

Released: April 28, 2014

By the Commission:

I. INTRODUCTION

1. This case involves a television broadcast station licensee's repeated and egregious disregard for several Commission rules, most significant of which was its refusal, on two separate occasions, to comply with its obligation to allow FCC agents to inspect its facilities. The Commission's ability to conduct unannounced inspections to assess licensees' compliance with its rules is essential to our responsibility to promote safety of life and property through the use of wire and radio communication. Nevertheless, despite its clear regulatory duty, D.T.V., LLC (D.T.V.), licensee of Class A Television Station WPHA-CD (Station WPHA or the Station) in Philadelphia, Pennsylvania, twice refused to permit inspection of its facilities by FCC agents.

2. In this Notice of Apparent Liability for Forfeiture (NAL), we find that D.T.V.'s actions constitute apparently willful and repeated violations of Section 73.1225(a) of the Commission's rules (Rules). We also find that D.T.V. apparently willfully violated Section 73.1125(a) of the Rules by failing to maintain a fully staffed main studio and apparently willfully and repeatedly violated Section 73.1350(a) of the Rules by failing to operate Station WPHA in accordance with the terms of the Station's authorization. Consequently, we conclude that D.T.V. is apparently liable for a forfeiture in the amount of eighty-nine thousand two-hundred dollars (\$89,200).

II. BACKGROUND

3. On the morning of August 17, 2011, at approximately 11:20 a.m., agents from the Enforcement Bureau's Philadelphia Office (Philadelphia Office) attempted to inspect the main studio for Station WPHA at 4651 Torresdale Avenue in Philadelphia, Pennsylvania. When the agents arrived at the Station, they found that the main studio was inaccessible because there was a locked gate across the driveway that led to the building. The agents spoke to the Station Manager on the telephone and requested access to the main studio to conduct an inspection. Instead of providing the agents access to the main studio, however, the Station Manager asked the agents to wait for him at the gate. After about ten minutes, the Station Manager appeared at the gate and the agents identified themselves. The Station Manager told the agents that he was leaving for a doctor's appointment and asked whether the agents could come back the following day to conduct the inspection. In response to questions about staffing at

1 47 U.S.C. § 151.

2 47 C.F.R. § 73.1225(a).

3 47 C.F.R. §§ 73.1125(a), 73.1350(a).

the main studio, the Station Manager reported that there was no one else available at the main studio to facilitate an inspection. The agents advised the Station Manager that the main studio needed to be accessible to the general public and must be staffed during normal business hours in accordance with Commission requirements.⁴ Nevertheless, the Station Manager refused to permit the inspection, and the agents left without agreeing to return the next day.

4. After leaving the main studio location, one of the agents attempted to contact Mr. Randolph Weigner, who according to Commission records is the sole principal of D.T.V., the Station licensee.⁵ The agent left a voicemail message reporting that the main studio was inaccessible to the public and that the Station Manager had failed to make the Station's main studio available for inspection. Although the agent left his telephone number and requested that Mr. Weigner return his call, Mr. Weigner did not return the agent's call. The agent also followed up with a call to the Station's main studio, where he left a voicemail message and requested a return call. The Station Manager returned the call and advised the agent that he was still at his doctor's appointment. The agent noted to the Station Manager that, based on the caller identification number, the Station Manager appeared to be calling from the main studio. The Station Manager stated that the Station used his personal cellular number as the Station's main studio number.

5. On the morning of September 30, 2011, again during regular business hours, the agents returned to the Station and again attempted to inspect the Station's main studio. The agents observed that the main studio was still inaccessible because the main access gate was locked. While the agents stood outside the gate, the Station Manager exited the main studio building and appeared at the gate. The agents identified themselves and again asked to conduct a main studio inspection, and advised the Station Manager that the Station's main access gate must not be locked during normal business hours. Once again, instead of providing access to conduct the inspection, the Station Manager asked the agents to wait outside the gate, which remained locked. After waiting more than ten minutes for the Station Manager to return, the agents left the scene.

6. That afternoon, the agents returned and conducted an exterior visual inspection of the Station's main studio facility. The agents observed that the main studio remained inaccessible because the Station's main access gate was still locked. One of the agents therefore called the main studio number and spoke again to the Station Manager. The agent advised the Station Manager that the Station's main studio must be made available for inspection by FCC agents, and that the locked gate prevented access to the main studio. In response, the Station Manager reported that the main access gate must remain locked for security reasons and that the public must contact the station to obtain access. The agents noted that no information was posted at the gate to inform the public how to obtain access to the Station.

7. Later that day, one of the agents again attempted to contact Mr. Weigner and left a voicemail message advising him that FCC agents again were unable to gain access to the main studio to conduct an inspection and that the main studio remained inaccessible to the public because of the locked gate. Although the agent requested that Mr. Weigner return his call, Mr. Weigner again did not do so.

8. On March 6, 2012, an agent monitored Station WPHA on Television Channel 38 (614-620 MHz) and used direction-finding equipment to locate the source of the transmissions to antenna structure number 1231524, which, according to Commission records, is owned by American Towers LLC (American Towers).⁶ An American Towers employee assisted the agent in identifying WPHA's transmitting equipment, which was located in a room of a building next to the base of the antenna

⁴ Those staffing requirements are discussed at *infra* paragraph 12.

⁵ See D.T.V., LLC, FCC Form 323 Ownership Report, File No. BOA-20111027AFV (D.T.V., LLC Ownership Report).

⁶ Antenna structure number 1231524 is located at 400-405 Domino Lane, Philadelphia, Pennsylvania at the coordinates 40° 02' 30.1" North Latitude 075° 14' 10.1" West Longitude. ASB File No. A0842106.

structure. The agent spoke to American Towers' FCC Compliance Manager, who confirmed that Station WPHA had operated from antenna structure number 1231524 since 2004. According to Station WPHA's license, however, the Station has been authorized to operate only from antenna structure number 1026755, which is also owned by American Towers, and is located 0.203 miles from antenna structure number 1231524.⁷ That day, the agent conducted an inspection at antenna structure number 1026755 with the field operations technician for American Towers and confirmed that Station WPHA did not have any transmitting equipment at its authorized location.⁸

III. DISCUSSION

9. 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.⁹ 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.¹⁰ 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,¹¹ and the Commission has so interpreted the term in the Section 503(b) context.¹² The Commission may also assess a forfeiture for violations that are merely repeated, and not willful.¹³ The term "repeated" means the commission or omission of such act more than once or for more than one day.¹⁴

⁷ See File No. BLDTA-20101118AIV. Antenna structure number 1026755 is located at 216 Paoli Avenue, Philadelphia, Pennsylvania at the coordinates 40° 02' 19.7" North Latitude 075° 14' 12.8" West Longitude. ASB File No. A0806073.

⁸ A search of the FCC database at the time of the agent's visit to the transmitter site revealed that the Station had never filed for a special temporary authorization to operate from antenna structure number 1231524. Following the agent's inspection of the transmission facility, D.T.V. filed a modification application to change the transmitter coordinates for antenna structure number 1231524. See D.T.V., LLC, Application for Authority to Construct or Make Changes in a Class A Television Broadcast Station, File No. BPDTA-20120307AAR (filed Mar. 8, 2012). The application was subsequently granted and a license was issued to D.T.V. to cover the modified transmission facility.

⁹ 47 U.S.C. § 503(b).

¹⁰ 47 U.S.C. § 312(f)(1).

¹¹ 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").

¹² See, e.g., *Southern California Broadcasting Co.*, Memorandum Opinion and Order, 6 FCC Rcd 4387, 4388, para. 5 (1991), *recon. denied*, 7 FCC Rcd 3454 (1992).

¹³ 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).

¹⁴ 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, para. 9.

10. This case involves a fundamental component of our regulatory scheme – our ability to obtain accurate information from our licensees. The Commission must judiciously employ its resources in monitoring compliance with FCC rules by each of the thousands of entities subject to our oversight. Accordingly, the agency relies on periodic inspections by its field agents to verify regulatee compliance with numerous critical rules, including those governing the Emergency Alert System (EAS), power levels, and tower painting and lighting. D.T.V. failed to meet its responsibility to have someone present at the station during business hours, thereby preventing the public from accessing the station. D.T.V. then substantially compounded its misconduct by repeatedly refusing to permit inspection by an FCC agent. Such actions not only undermine the Commission’s ability to ensure proper operation, but reflect indifference toward the licensee’s obligation to serve the public trust.

A. Refusal to Make Station Available for Inspection

11. Section 73.1225(a) of the Rules requires that the “licensee of a broadcast station shall make the station available for inspection by representatives of the FCC during the station’s business hours, or at any time it is in operation.”¹⁵ On August 17, 2011, and September 30, 2011, agents from the Philadelphia Office attempted to inspect the Station during normal business hours. Despite repeated contacts with the Station Manager as well as multiple attempts to contact D.T.V.’s sole principal for assistance in obtaining access to his Station’s main studio, the agents were refused entry to the main studio on two separate occasions to conduct an inspection. Accordingly, based on the evidence before us, we find that D.T.V. apparently willfully and repeatedly violated Section 73.1225(a) of the Rules by refusing to make the Station available for inspection by an FCC agent.

B. Main Studio Violation

12. Section 73.1125(a) of the Rules requires broadcast stations to maintain a main studio.¹⁶ The Commission has interpreted Section 73.1125 (also known as the “Main Studio Rule”) to require, among other things, that a licensee maintain a “meaningful management and staff presence” at its main studio.¹⁷ Specifically, the Commission has found that a main studio “must, at a minimum, maintain full-time managerial and full-time staff personnel.”¹⁸ Although management personnel need not be “chained to their desks” during normal business hours, they must “report to work at the main studio on a daily basis, spend a substantial amount of time there and . . . use the studio as a ‘home base.’”¹⁹ Moreover, while the Commission has stated that the staff person may “take on responsibilities for another business” to the extent consistent with full performance of that person’s station duties, he or she may do so “as long as the main studio remains attended during normal business hours.”²⁰ At a minimum, “attended during normal business hours” requires that at least one person must be on duty at all times at the main studio during normal business hours.

¹⁵ 47 C.F.R. § 73.1225(a).

¹⁶ 47 C.F.R. § 73.1125(a).

¹⁷ *Amendment of Sections 73.1125 and 73.1130 of the Commission’s Rules, the Main Studio and Program Origination Rules for Radio and Television Broadcast Stations*, Memorandum Opinion and Order, 3 FCC Rcd 5024, 5026, para. 24 (1988), *erratum issued*, 3 FCC Rcd 5717 (1988) (correcting language in n.29).

¹⁸ *See Jones Eastern of the Outer Banks, Inc.*, Memorandum Opinion and Order, 6 FCC Rcd 3615, 3616 & n.2, para. 9 (1991) (noting that, “[t]his is not to say that the same staff person and manager must be assigned full-time to the main studio. Rather, there must be management and staff presence on a full-time basis during normal business hours to be considered ‘meaningful’”), *clarified by*, 7 FCC Rcd 6800 (1992) (*Jones Eastern II*); *see also Birach Broadcasting Corp.*, Notice of Apparent Liability for Forfeiture, 25 FCC Rcd 2635 (Enf. Bur. 2010).

¹⁹ *Jones Eastern II*, 7 FCC Rcd at 6802, para. 11.

²⁰ *Id.*

13. On August 17, 2011, agents from the Philadelphia Office attempted to conduct an inspection at the Station's main studio during business hours. When agents contacted the Station Manager, he stated he was not available to conduct the inspection and there was no one else available at the main studio to facilitate the inspection because he was leaving the facility for a doctor's appointment. Based on the evidence before us, we find that D.T.V. apparently willfully violated Section 73.1125(a) of the Rules by failing to maintain a full-time management and staff presence at the Station's main studio during regular business hours.

C. Failure to Operate in Accordance with Station Authorization

14. Section 73.1350(a) of the Rules states that “[e]ach licensee is responsible for maintaining and operating its broadcast station in a manner which complies with the technical rules . . . and in accordance with the terms of the station authorization.”²¹ On March 6, 2012, an agent of the Philadelphia Office inspected the transmission facility for the Station and determined that the Station was operating from an unauthorized location. An employee from American Towers, the antenna structure owner, confirmed that D.T.V. had operated the Station from the unauthorized location since 2004. Accordingly, based on the evidence before us, we find that D.T.V. apparently willfully and repeatedly violated Section 73.1350(a) of the Rules by failing to operate the Station in accordance with the terms of the Station's authorization.

D. Proposed Forfeiture Amount

15. Pursuant to the Commission's *Forfeiture Policy Statement* and Section 1.80 of the Rules, the base forfeiture amount for violations of the Main Studio Rule is \$7,000, the base forfeiture amount for construction or operation at an unauthorized location is \$4,000, and the base forfeiture for failing to make a station available for inspection is \$7,000.²² The Commission also retains the discretion, however, to issue a higher or lower forfeiture than provided in the *Forfeiture Policy Statement* based on 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.²³ For violations by broadcast licensees, the Communications Act authorizes monetary forfeitures of up to \$37,500 for *each* violation or, in the case of a continuing violation, the Commission may impose monetary forfeitures of up to \$37,500 for *each day* of such continuing violation up to a maximum forfeiture of \$375,000 for any single act or failure to act.²⁴

²¹ 47 C.F.R. § 73.1350(a).

²² *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*), recon. denied, 15 FCC Rcd 303 (1999); 47 C.F.R. § 1.80.

²³ See 47 U.S.C. § 503(b)(2)(E); 47 C.F.R. § 1.80(b)(8).

²⁴ See 47 U.S.C. § 503(b)(2)(A); 47 C.F.R. § 1.80(b)(1) (2011). These amounts reflect inflation adjustments to the forfeitures specified in Section 503(b)(2)(A). The Federal Civil Penalties Inflation Adjustment Act of 1990, Pub. L. No. 101-410, 104 Stat. 890, as amended by the Debt Collection Improvement Act of 1996, Pub. L. No. 104-134, Sec. 31001, 110 Stat. 1321 (DCIA), requires the Commission to adjust its forfeiture penalties periodically for inflation. See 28 U.S.C. § 2461 note (4). The Commission most recently adjusted its penalties to account for inflation in 2013. See *Amendment of Section 1.80(b) of the Commission's Rules, Adjustment of Civil Monetary Penalties to Reflect Inflation*, Order, 28 FCC Rcd 10785 (Enf. Bur. 2013); see also *Inflation Adjustment of Monetary Penalties*, 78 Fed. Reg. 49,370-01 (Aug. 14, 2013) (setting Sept. 13, 2013, as the effective date for the increases). Because the DCIA specifies that any inflationary adjustment “shall apply only to violations that occur after the date the increase takes effect,” however, we apply the forfeiture penalties in effect at the time the apparent violation took place. 28 U.S.C. § 2461 note (6). Here, because the apparent violations at issue occurred in 2011, the applicable maximum penalties are based on the Commission's previous inflation adjustment that became effective on September 2, 2008. See *Inflation Adjustment of Maximum Forfeiture Penalties*, 73 Fed. Reg. 44,663, 44,664 (July 31, 2008).

16. With respect to D.T.V.'s apparent violation of the Main Studio Rule, we propose the base forfeiture – \$7,000. Regarding D.T.V.'s operation of WPHA from an unauthorized location, we propose a forfeiture in the amount of \$7,200, which reflects an upward adjustment of \$3,200 to the base forfeiture amount due to the duration of the apparent violation.²⁵

17. D.T.V.'s apparent willful and repeated failure to allow the FCC agents to inspect Station WPHA during normal business hours,²⁶ however, raises more serious concerns. D.T.V.'s actions threaten to compromise the Commission's ability to fully investigate potential violations of its rules. By refusing to allow access to its main studio, D.T.V. prevented the agents from conducting a comprehensive inspection of the Station's facilities and filings, including the Station's Public Inspection File.

18. This is simply unacceptable. The licensee and its sole principal are experienced broadcasters and own numerous broadcast stations, including multiple Class A Television facilities across the country.²⁷ Consequently, D.T.V. and its sole principal are well aware of the Commission's rules requiring licensees to make their broadcast stations available for "on-the-spot" inspections at the request of FCC agents. Indeed, D.T.V. concedes that FCC agents have inspected Station WPHA "multiple times, including both the studio and transmitter facilities."²⁸ As we have previously noted, FCC agents do not need to make an appointment to inspect a broadcast licensee's main studio and records, and such inspection is not subject to the convenience of the licensee.²⁹ Although earlier cases where FCC agents were unable to conduct inspections of main studios or the public inspection file may have resulted in smaller forfeitures, none of those cases involved repeated, direct, in-person refusals of access by the highest levels of a broadcast station's management, as well as multiple failures by the licensee's sole principal to return FCC agent calls concerning the refusals. Here, by contrast, D.T.V.'s actions exhibited a blatant disregard of and contempt for the Commission's authority. Ensuring the expeditious and effective enforcement of the Commission's rules is critically important and that objective requires licensees to provide FCC agents with timely access to their facilities. Accordingly, a broadcast licensee's

²⁵ See e.g., *Mt. Rushmore Broadcasting, Inc.*, 27 FCC Rcd 8263 (Enf. Bur. 2012) (proposing upward adjustment in base forfeiture amount from \$4,000 to \$8,000 for operating a Studio to Transmitter Link at an unauthorized location for ten years).

²⁶ While the agents attempted to inspect the Station during normal business hours, we note that Section 73.1225(a) of the Rules requires broadcast licensees to make a station available for inspection by FCC agents "at any time it is in operation." 47 C.F.R. § 73.1225(a).

²⁷ According to its most recent ownership report, D.T.V. holds licenses for the following Class A and TV translator stations: WPHA-CD, WIRE-CD, KSEX-CA, WRAP-LP, KBOP-LD, and W21CQ. See D.T.V., LLC Ownership Report. According to that report and the current Ownership Report of Sunshine Broadcasting Company, Inc., File No. BOA-20111024ANL, of which Mr. Weigner is also the sole principal, Sunshine is the licensee of Class A Television Stations WIMP-CD and WARP-CD. On June 19, 2013, the Media Bureau granted an application for authority to assign WARP-CD. See File No. BALDTA-20121102AET.

²⁸ Memorandum from Peter Tannenwald, Counsel for D.T.V., LLC, to Sharon Webber, Regional Counsel, Northeast Region, Enforcement Bureau, at 1 (Aug. 15, 2013).

²⁹ See, e.g., *Allen's TV Cable Service, Inc.*, Notice of Apparent Liability for Forfeiture, 27 FCC Rcd 1438, 1439, para. 4 (Enf. Bur. 2012) (proposing forfeiture for failure to make public inspection file available until next day when manager would be available); *Christopher H. Bennett Broadcasting of Washington, Inc.*, Forfeiture Order, 23 FCC Rcd 11285, 11288, para. 16 (Enf. Bur. 2008) (observing that failure to make station available for inspection was "particularly troubl[ing]" and that a main studio "must be made available to Commission agents during the station's business hours, or at any time it is in operation."); see also FCC, Inspection Fact Sheet (Mar. 2005), available at <http://www.fcc.gov/guides/inspection-fact-sheet> (stating that FCC agents do not need to make an appointment to access a main studio because "[t]he Commission has no means of determining whether a station is being operated as licensed except through immediate on-the-spot inspection"); *Gaston Coll.*, Notice of Apparent Liability for Forfeiture, 22 FCC Rcd 4556 (Enf. Bur. 2007) (proposing forfeiture for failure to make public inspection records available upon request by private citizen and advising individual to make appointment with licensee's attorney).

continued refusal to allow FCC agents to inspect its station in accordance with Section 73.1225(a) is an egregious violation of the Commission's rules warranting stringent enforcement action.

19. Given the gravity and repeated and willful nature of these apparent violations, we conclude that a total proposed forfeiture of \$75,000 is fully justified for D.T.V.'s failures to allow inspection (the statutory maximum of \$37,500 for each failure to allow an inspection).³⁰ We also caution D.T.V. that any future failure to allow an inspection of Station WPHA, or any other stations licensed to D.T.V. or its affiliated companies, may result in the imposition of additional (and potentially higher) forfeitures, as well as other enforcement actions, as appropriate.³¹ Applying the *Forfeiture Policy Statement*, Section 1.80, and the statutory factors to the instant case, we conclude that D.T.V. is apparently liable for a total forfeiture in the amount of \$89,200 – \$75,000 for failure to allow FCC agents to conduct a station inspection on two occasions, \$7,000 for violation of the Main Studio Rule, and \$7,200 for operating Station WPHA from an unauthorized location.

IV. ORDERING CLAUSES

20. Accordingly, **IT IS ORDERED** that, pursuant to Section 503(b) of the Communications Act of 1934, as amended, and Sections 0.111 and 1.80 of the Commission's rules, D.T.V., LLC is hereby **NOTIFIED** of this **APPARENT LIABILITY FOR A FORFEITURE** in the amount of eighty-nine thousand two-hundred dollars (\$89,200) for violations of Sections 73.1125(a), 73.1225(a), and 73.1350(a) of the Commission's rules.³²

21. **IT IS FURTHER ORDERED** that, pursuant to Section 1.80 of the Commission's rules, within thirty (30) days of the release date of this Notice of Apparent Liability for Forfeiture, D.T.V., LLC **SHALL PAY** the full amount of the proposed forfeiture or **SHALL FILE** a written statement seeking reduction or cancellation of the proposed forfeiture.

22. Payment of the forfeiture must be made by check or similar instrument, wire transfer, or credit card, and must include the NAL/Account Number and FRN referenced above. D.T.V., LLC shall also send electronic notification on the date said payment is made to NER-Response@fcc.gov. Regardless of the form of payment, a completed FCC Form 159 (Remittance Advice) must be submitted.³³ When completing the FCC Form 159, enter the Account Number in block number 23A (call sign/other ID) and enter the letters "FORF" in block number 24A (payment type code). Below are additional instructions you should follow based on the form of payment you select:

- Payment by check or money order must be made payable to the order of the Federal Communications Commission. Such payments (along with the completed Form 159) must be mailed to Federal Communications Commission, P.O. Box 979088, St. Louis, MO 63197-9000, or sent via overnight mail to U.S. Bank – Government Lockbox #979088, SL-MO-C2-GL, 1005 Convention Plaza, St. Louis, MO 63101.

³⁰ This forfeiture amount reflects recent actions taken by the full Commission regarding similarly egregious violations of FCC rules. *Towerstream Corp.*, Notice of Apparent Liability for Forfeiture, 28 FCC Rcd 11604, 11614, paras. 29–30 (2013) (proposing the statutory maximum of \$192,000, or \$16,000 per unlawful operation and interference violation); *Richard Jackowitz It Connect, Inc.*, Forfeiture Order, 28 FCC Rcd 6692, 6695, para. 7 (2013) (imposing the statutory maximum of \$240,000, or \$16,000 per violation, for willful and repeated violation of the Commission's toll free numbering rules).

³¹ See 47 U.S.C. §§ 312, 401, 501, 503. We note that continued failure to comply with the rules applicable to Class A television broadcast stations, particularly egregious violations such as the inspection refusals at issue here, could result in Commission action to remove Station WPHA's Class A status. See 47 U.S.C. § 336(f)(2)(A)(ii); 47 C.F.R. § 73.6001(c).

³² 47 U.S.C. § 503(b), 47 C.F.R. §§ 0.111, 1.80, 73.1125(a), 73.1225(a), 73.1350(a).

³³ An FCC Form 159 and detailed instructions for completing the form may be obtained at <http://www.fcc.gov/Forms/Form159/159.pdf>.

- Payment by wire transfer must be made to ABA Number 021030004, receiving bank TREAS/NYC, and Account Number 27000001. To complete the wire transfer and ensure appropriate crediting of the wired funds, a completed Form 159 must be faxed to U.S. Bank at (314) 418-4232 on the same business day the wire transfer is initiated.
- Payment by credit card must be made by providing the required credit card information on FCC Form 159 and signing and dating the Form 159 to authorize the credit card payment. The completed Form 159 must then be mailed to Federal Communications Commission, P.O. Box 979088, St. Louis, MO 63197-9000, or sent via overnight mail to U.S. Bank – Government Lockbox #979088, SL-MO-C2-GL, 1005 Convention Plaza, St. Louis, MO 63101.

23. Any request for making full payment over time 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. 20554.³⁴ If you have questions regarding payment procedures, please contact the Financial Operations Group Help Desk by phone, 1-877-480-3201, or by e-mail, ARINQUIRIES@fcc.gov.

24. 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 1.16 and 1.80(f)(3) of the Rules.³⁵ Mail the written statement to Federal Communications Commission, Enforcement Bureau, Northeast Region, Philadelphia Office, One Oxford Valley Building, Suite 404, 2300 East Lincoln Highway, Langhorne, Pennsylvania 19047 and include the NAL/Account Number referenced in the caption. D.T.V., LLC also shall e-mail the written response to NER-Response@fcc.gov.

25. 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 principles (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.

26. **IT IS FURTHER ORDERED** that copies of this Notice of Apparent Liability for Forfeiture shall be sent by Certified Mail, Return Receipt Requested, and first class mail, to D.T.V., LLC at 1903 South Greeley Highway # 127, Cheyenne, Wyoming 82007, and to Peter Tannenwald, counsel for D.T.V., LLC, at Fletcher, Heald, & Hildreth, P.L.C., 1300 North 17th Street, 11th Floor, Arlington, Virginia 22209.

FEDERAL COMMUNICATIONS COMMISSION

Marlene H. Dortch
Secretary

³⁴ See 47 C.F.R. § 1.1914.

³⁵ 47 C.F.R. §§ 1.16, 1.80(f)(3).