

Federal Communications Commission

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

In the Matter of)
)
New York University.) File No. EB-10-NY-0261
Licensee of FM Radio Station WNYU)
Facility ID # 48695)
New York, New York) NOV No. V201032380024

NOTICE OF VIOLATION

Released: June 22, 2010

By the District Director, New York Office, Northeast Region, Enforcement Bureau:

1. This is a Notice of Violation (“Notice”) issued pursuant to Section 1.89 of the Commission’s Rules¹ to New York University, licensee of FM radio station WNYU in New York, New York. This Notice may be combined with a further action, if further action is warranted.²

2. On May 20, 2010, an agent of the Enforcement Bureau's New York Office inspected WNYU’s main studio located at 5-11 University Place, New York, NY 10003, and observed the following violation:

47 C.F.R. § 11.61(b): “Entries shall be made in EAS Participant records, as specified in §§ 11.35(a) and 11.54(b)(13).” The station records did not contain entries for weekly tests conducted during the weeks of January 31, 2010, February 21 and 28, 2010 and March 14, 2010 The station records also did not contain an entry of the monthly test received and retransmitted for the month of February 2010. The broadcast station records contained no reasons why the weekly tests were not conducted and why the monthly test was not received and retransmitted.

3. As the nation’s emergency warning system, the Emergency Alert System is critical to public safety, and we recognize the vital role that broadcasters play in ensuring its success. The Commission takes seriously any violations of the Rules implementing the EAS and expects full compliance from its regulatees. Pursuant to Section 403 of the Communications Act of 1934, as amended,³ and Section 1.89 of the Commission's Rules, we seek additional information concerning the violation(s) and any remedial actions the station may have taken. Therefore, New York University must submit a written statement concerning this matter within twenty (20) days of release of this Notice. The response (i) must fully explain each violation, including all relevant surrounding facts and circumstances, (ii) must contain a statement of the

¹47 C.F.R. § 1.89.

²47 C.F.R. § 1.89(a).

³47 U.S.C. § 403.

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specific action(s) taken to correct each violation and preclude recurrence, and (iii) must include a time line for completion of any pending corrective action(s). The response must be complete in itself and must not be abbreviated by reference to other communications or answers to other notices.⁴

4. In accordance with Section 1.16 of the Commission’s Rules, we direct New York University to support its response to this Notice with an affidavit or declaration under penalty of perjury, signed and dated by an authorized officer of New York University with personal knowledge of the representations provided in New York University’s response, verifying the truth and accuracy of the information therein,⁵ and confirming that all of the information requested by this Notice which is in the licensee’s possession, custody, control, or knowledge has been produced. To knowingly and willfully make any false statement or conceal any material fact in reply to this Notice is punishable by fine or imprisonment under Title 18 of the U.S. Code.⁶

5. All replies and documentation sent in response to this Notice should be marked with the File No. and NOV No. specified above, and mailed to the following address:

Federal Communications Commission
New York Office
201 Varick Street, Suite 1151
New York, NY 10014

6. This Notice shall be sent to New York University at its address of record.

7. The Privacy Act of 1974⁷ requires that we advise you that the Commission will use all relevant material information before it, including any information disclosed in your reply, to determine what, if any, enforcement action is required to ensure compliance.

⁴47 C.F.R. § 1.89(c).

⁵Section 1.16 of the Commission’s Rules provides that “[a]ny document to be filed with the Federal Communications Commission and which is required by any law, rule or other regulation of the United States to be supported, evidenced, established or proved by a written sworn declaration, verification, certificate, statement, oath or affidavit by the person making the same, may be supported, evidenced, established or proved by the unsworn declaration, certification, verification, or statement in writing of such person Such declaration shall be subscribed by the declarant as true under penalty of perjury, and dated, in substantially the following form . . . : ‘I declare (or certify, verify, or state) under penalty of perjury that the foregoing is true and correct. Executed on (date). (Signature)’.” 47 C.F.R. § 1.16.

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

⁷P.L. 93-579, 5 U.S.C. § 552a(e)(3).

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Daniel W. Noel
District Director
New York District Office
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