



FEDERAL COMMUNICATIONS COMMISSION
Enforcement Bureau
Investigations and Hearings Division
445 12th Street, S.W., Suite 4-C330
Washington, D.C. 20554

JUN 03 2010

VIA CERTIFIED MAIL - RETURN RECEIPT REQUESTED.
Facsimile at (622) 844-7061

Lingard Broadcasting Corporation
P.O. Box 1732
Tupelo, Mississippi 38802

Re: "American Dad"
File No. EB-10-IH-0188

Dear Licensee:

The Enforcement Bureau has received numerous complaints alleging that Fox Television Network affiliated stations aired indecent material, in violation of 18 U.S.C. § 1464 and Section 73.3999 of the Commission's rules,¹ during the stations' broadcast of "American Dad" on January 3, 2010, at approximately 9:30 p.m. Eastern and Pacific Standard Time and 8:30 p.m. Central and Mountain Standard Time. The Bureau is investigating whether the "American Dad" broadcast violated the referenced sections.

On January 21, 2010, the Bureau sent a Letter of Inquiry concerning these allegations to Fox Television Stations, Inc. ("Fox") and directed Fox to provide information and documents concerning the stations that had aired the January 3, 2010 episode of "American Dad", including Fox owned stations and Fox Television Network affiliate stations.² The Fox LOI sought to create an accurate record during the fact-gathering phase of the Enforcement Bureau's investigation of this matter in a manner that was efficient to all relevant parties. Specifically, the Fox LOI provided an opportunity for Fox to indicate, as a preliminary matter, which stations did not air the material in

¹ See 47 C.F.R. § 73.3999.

² See Letter from Benigno E. Bartolome, Deputy Chief, Investigations and Hearings Division, Enforcement Bureau, Federal Communications Commission, to Joseph Di Scipio, Esquire, Vice President for Legal and FCC Compliance, Fox Television Stations, Inc., dated January 21, 2010 ("Fox LOI") (attached). The Fox LOI included an example complaint ("Complaint"). See *id.*

question. Fox refused to respond to the January 21, 2010 LOI or to subsequent demands for the information as directed, although it did not deny that it has the information, assert that production is unduly burdensome, or claim that the information is privileged. On June 3, 2010, the Bureau issued a Notice of Apparent Liability against Fox, proposing a \$25,000 forfeiture, for its willful and repeated violation of a Commission Order and of Section 73.1015 of the Commission's rules.³

We direct the Licensee, pursuant to Sections 4(i), 4(j), 308(b) and 403 of the Communications Act of 1934, as amended,⁴ to provide the information and Documents, as defined herein, within thirty (30) calendar days from the date of this letter. Instructions and Definitions are contained in the attachment to this letter. **Requests for confidential treatment or claims of attorney-client privilege or attorney work product must meet the requirements stated in the attached Instructions.**

Unless otherwise indicated, the period of time covered by these inquiries is January 3, 2009 to the present.

Inquiries: Documents and Information to be Provided

1. State whether the Licensee broadcast any or all of the material described in the Complaint, and Identify which station(s) licensed to the Licensee broadcast the material.
2. With regard to each station named in the response to Inquiry 1 above, provide:
 - a. the call sign, community of license and licensee; and
 - b. the date(s) and time(s) of the Broadcast(s).
3. With regard to each station named in the response to Inquiries 1 and 2 above, state whether the Licensee edited or otherwise broadcast only a portion of "American Dad" on January 3, 2010, and for each station that edited or otherwise broadcast only a portion of "American Dad" on January 3, 2010, provide:
 - a. a transcript of the Broadcast; and
 - b. (i) a high-definition recording of "American Dad," as broadcast on January 3, 2010, on a standard DVD that can be played on a DVD player and a personal computer in WMV or QuickTime format, as

³ See *Fox Television Stations*, Notice of Apparent Liability, DA 10-995 (EB rel. June 3, 2010).

⁴ See 47 U.S.C. §§ 154(i), 154(j), 308(b), 403.

well as (ii) a VHS videotaped recording of the program in the highest available quality. The recording should allow the viewing of the program without interruption.

4. If the programming described in the Complaint does not accurately reflect the material aired over the station(s), describe any inaccuracies.
5. Did the Licensee or the Fox Television Network display or announce any TV Parental Guidelines regarding the broadcast of "American Dad" on January 3, 2010? If so, state the rating applied and when and how that rating was announced or displayed.
6. With regard to each station named in response to Inquiries 1, 2 and 3, above, state whether the Licensee received any complaints relating to the broadcast. If so, provide copies of all Documents relating to any such complaints and group the Documents by station.
7. Provide copies of all Documents that provide the basis for or otherwise support the responses to Inquiries 1-6, above.
8. Provide any additional information that you believe may be helpful in our consideration and resolution of this matter.

Instructions for Filing Responses

We direct the Licensee to support its responses with an affidavit or declaration under penalty of perjury, signed and dated by an authorized officer of the Licensee with personal knowledge of the representations provided in the Licensee's response, verifying the truth and accuracy of the information therein and that all of the information and/or recordings requested by this letter which are in the Licensee's possession, custody, control, or knowledge have been produced. If multiple Licensee employees contribute to the response, in addition to such general affidavit or declaration of the authorized officer of the Licensee noted above, if such officer (or any other affiant or declarant) is relying on the personal knowledge of any other individual, rather than his or her own knowledge, provide separate affidavits or declarations of each such individual with personal knowledge that identify clearly to which responses the affiant or declarant with such personal knowledge is attesting. All such declarations provided must comply with Section 1.16 of the Commission's rules,⁵ and be substantially in the form set forth therein.

To knowingly and willfully make any false statement or conceal any material fact in reply to this inquiry is punishable by fine or imprisonment.⁶ Failure to respond

⁵ See 47 C.F.R. § 1.16.

⁶ See 18 U.S.C. § 1001; see also 47 C.F.R. § 1.17.

appropriately to this letter of inquiry may constitute a violation of the Communications Act and our rules.⁷

The Licensee shall direct its response, if sent by messenger or hand delivery, to Marlene H. Dortch, Secretary, Federal Communications Commission, 445 12th Street, S.W., Room TW-A325, Washington, D.C. 20554, to the attention of Judy Lancaster, Attorney Advisor, Investigations and Hearings Division, Enforcement Bureau, Room 4-C330, with a copy to Anjali K. Singh, Acting Assistant Chief, Investigations and Hearings Division, Enforcement Bureau, Room 4-C330, Federal Communications Commission. If sent by commercial overnight mail (other than U.S. Postal Service Express Mail and Priority Mail) the response should be sent to the Federal Communications Commission, 9300 East Hampton Drive, Capitol Heights, Maryland 20743. If sent by first-class, Express, or Priority mail, the response should be sent to Judy Lancaster, Attorney Advisor, Investigations and Hearings Division, Enforcement Bureau, Federal Communications Commission, 445 12th Street, S.W., Room 4-C330, Washington, D.C. 20554, with a copy to Anjali K. Singh, Acting Assistant Chief, Investigations and Hearings Division, Enforcement Bureau, Federal Communications Commission, 445 12th Street, S.W., Room 4-C330, Washington, D.C. 20554. The Licensee shall also, to the extent practicable, transmit a copy of the response via email to Judy.Lancaster@fcc.gov and to Anjali.Singh@fcc.gov.

Sincerely,



Anjali K. Singh
Acting Assistant Chief
Investigations and Hearings Division
Enforcement Bureau

Attachments (2)

⁷ See *SBC Communications, Inc.*, Forfeiture Order, 17 FCC Rcd 7589 (2002); *Globcom, Inc.*, Notice of Apparent Liability for Forfeiture and Order, 18 FCC Rcd 19893, n.36 (2003); *World Communications Satellite Systems, Inc.*, Forfeiture Order, 19 FCC Rcd 2718 (Enf. Bur. 2004); *Donald W. Kaminski, Jr.*, Forfeiture Order, 18 FCC Rcd 26065 (Enf. Bur. 2003).

Attachment

Instructions

Request for Confidential Treatment. If the Licensee requests that any information or documents responsive to this letter be treated in a confidential manner, it shall submit, along with all responsive information and documents, a statement in accordance with Section 0.459 of the Commission's rules. See 47 C.F.R. § 0.459. Requests for confidential treatment must comply with the requirements of Section 0.459, including the standards of specificity mandated by Section 0.459(b). Accordingly, "blanket" requests for confidentiality of a large set of documents, and casual requests, including simply stamping pages "confidential," are unacceptable. Pursuant to Section 0.459(c), the Bureau will not consider requests that do not comply with the requirements of Section 0.459.

Claims of Privilege. If the Licensee withholds any information or documents under claim of privilege, it shall submit, together with any claim of privilege, a schedule of the items withheld that states, individually as to each such item: the numbered inquiry to which each item responds and the type, title, specific subject matter and date of the item; the names, addresses, positions, and organizations of all authors and recipients of the item; and the specific ground(s) for claiming that the item is privileged.

Format of Responses. The response must be organized in the same manner as the questions asked, i.e. the response to Inquiry 1 should be labeled as the response to Inquiry 1.

Method of Producing Documents. Each requested document, as defined herein, shall be submitted in its entirety, even if only a portion of that document is responsive to an inquiry made herein. This means that the document shall not be edited, cut, or expunged, and shall include all appendices, tables, or other attachments, and all other documents referred to in the document or attachments. All written materials necessary to understand any document responsive to these inquiries must also be submitted.

Identification of Documents. For each document or statement submitted in response to the inquiries stated in the cover letter, indicate, by number, to which inquiry it is responsive and identify the person(s) from whose files the document was retrieved. If any document is not dated, state the date on which it was prepared. If any document does not identify its author(s) or recipient(s), state, if known, the name(s) of the author(s) or recipient(s). The Licensee must identify with reasonable specificity all documents provided in response to these inquiries.

Documents No Longer Available. If a Document responsive to any inquiry made herein existed but is no longer available, or if the Licensee is unable for any reason to produce a Document responsive to any inquiry, identify each such Document by author, recipient, date, title, and specific subject matter, and explain fully why the Document is no longer available or why the Licensee is otherwise unable to produce it.

Retention of Original Documents. With respect only to documents responsive to the specific inquiries made herein and any other documents relevant to those inquiries, the Licensee is directed to retain the originals of those documents for twelve (12) months from the date of this letter unless (a) the Licensee is directed or informed by the Enforcement Bureau in writing to retain such documents for some shorter or longer period of time or (b) the Enforcement Bureau or the Commission releases an item on the subject of this investigation, including, but not limited to, a Notice of Apparent Liability for Forfeiture or an order disposing of the issues in the investigation, in which case, the Licensee must retain all such documents until the matter has been finally concluded by payment of any monetary penalty, satisfaction of all conditions, expiration of all possible appeals, conclusion of any collection action brought by the United States Department of Justice or execution and implementation of a final settlement with the Commission or the Enforcement Bureau.

Continuing Nature of Inquiries. The specific inquiries made herein are continuing in nature. The Licensee is required to produce in the future any and all documents and information that are responsive to the inquiries made herein but not initially produced at the time, date, and place specified herein. In this regard, the Licensee must supplement its responses (a) if the Licensee learns that, in some material respect, the documents and information initially disclosed were incomplete or incorrect or (b) if additional responsive documents or information are acquired by or become known to the Licensee after the initial production. The requirement to update the record will continue for twelve (12) months from the date of this letter unless (a) the Licensee is directed or informed by the Enforcement Bureau in writing that the Licensee's obligation to update the record will continue for some shorter or longer period of time or (b) the Enforcement Bureau or the Commission releases an item on the subject of this investigation, including, but not limited to, a Notice of Apparent Liability for Forfeiture or an order disposing of the issues in the investigation, in which case the obligation to update the record will continue until the release of such item.

Definitions

For purposes of this letter, the following definitions apply:

"Any" shall be construed to include the word "all," and the word "all" shall be construed to include the word "any." Additionally, the word "or" shall be construed to include the word "and," and the word "and" shall be construed to include the word "or." The word "each" shall be construed to include the word "every," and the word "every" shall be construed to include the word "each."

"Broadcast," when used as noun, shall mean visual images or audible sounds or language transmitted or disseminated over a station during the course of a radio or television broadcast.

“Broadcast,” when used as a verb, shall mean the transmission or dissemination of radio or television communications intended to be received by the public. The verb “broadcast” may be used interchangeably with the verb “air.”

“Correspondence” shall mean any letter, facsimile, e-mail, memorandum, note, telegram, report, record, posting on Licensee website blogs or social networking websites, or handwritten note.

“Document” shall mean the complete original (or in lieu thereof, exact copies of the original) and any non-identical copy (whether different from the original because of notations on the copy or otherwise), regardless of origin or location, of any taped, recorded, transcribed, written, typed, printed, filmed, punched, computer-stored, or graphic matter of every type and description, however and by whomever prepared, produced, disseminated, or made, and regardless of how denominated, including but not limited to any broadcast, radio program, advertisement, book, pamphlet, periodical, contract, correspondence, letter, facsimile, e-mail, file, invoice, memorandum, note, telegram, report, record, handwritten note, working paper, routing slip, chart, graph, photograph, paper, index, map, tabulation, manual, guide, outline, script, abstract, history, calendar, diary, agenda, minute, marketing plan, research paper, preliminary drafts, or versions of all of the above, and computer material (print-outs, cards, magnetic or electronic tape, disks and such codes or instructions as will transform such computer materials into easily understandable form).

“Identify” when used with reference to a person or persons, means to state his/her full legal name, current or last known business address, current or last known telephone number, current or last known organization and position therewith. “Identify,” when used with reference to a document, means to state the date, author, addressee, type of document (*e.g.*, the types of document, as described above), a brief description of the subject matter, its present or last known location and its custodian, who must also be identified. “Identify,” when used with reference to an entity other than a person, means to state its name, current or last known business address, and current or last known business telephone number.

“Licensee” shall mean Lingard Broadcasting Corporation and any predecessor-in-interest, affiliate, parent company, wholly or partially owned subsidiary, other affiliated company or business, and all owners, including but not limited to, partners or principals, and all directors, officers, employees, or agents, including consultants and any other persons working for or on behalf of the foregoing at any time during the period covered by this letter.

“Relating to” means in the whole or in part constituting, containing, concerning, discussing, describing, analyzing, identifying, or stating.