

are the Commission's main studio requirements; rules governing informational and educational children's programming and the limits on commercialization during children's programming; the requirement to identify a children's programming liaison at the station and to provide information regarding "core" educational and informational programming aired by the station to publishers of television program guides; the public inspection file rule, including preparing and placing in the public inspection file on a quarterly basis an issues/programs list and the station's quarterly-filed FCC Form 398 (Children's Television Programming Report); the political programming rules; station identification requirements; and the Emergency Alert System (EAS) rules.⁶

4. Class A television licensees are also subject to the regulations regarding fines and penalties applicable to full power television stations, and are subject to loss of Class A status if they fail to meet these ongoing program service and operating requirements.⁷ In addition, as the Commission explained in the *Class A Memorandum Opinion and Order on Reconsideration*:

Although Class A licensees will not be subject to loss of license for failure to continue to comply with the eligibility requirements in section (f)(2)(A) of the CPBA [including that they be in compliance with the Commission's rules for full-power stations after they file for a Class A license], they are subject to loss of Class A status if they fail to meet these ongoing obligations. . . . We [have] also adopted a rule stating that "Licensees unable to continue to meet the minimum operating requirements for Class A television stations . . . shall promptly notify the Commission in writing, and request a change in status [to low power]."⁸

5. Section 316(a) of the Communications Act of 1934, as amended, permits the Commission to modify an authorization if such action is in the public interest.⁹ Further, pursuant to Section 316(a), we are required to notify the affected station of the proposed action, as well as the public interest reasons for the action, and to afford the licensee at least 30 days to respond. This procedure is set forth in Section 1.87 of the Commission's Rules.¹⁰

6. By letter dated July 18, 2011, L4 Media responded to the staff's inquiry and admitted that it failed to file the Children's Television Programming Reports for the quarters identified in the staff's letters, and to place such reports in the stations' public files. Typically, a licensee's failure to file its Children's Television Programming Reports with the Commission, and place them in its public file, would result in the issuance of a Notice Of Apparent Liability imposing a forfeiture amount.¹¹ In this case, however, it appears that L4 Media has failed to comply with most, if not all, of the ongoing Class A eligibility requirements for an extended period of time.

7. As noted above, Class A Television stations are required to maintain a main studio. In order to qualify as a main studio, the designated location must house production equipment and station

⁶ *R & O*, 15 FCC Rcd at 6366.

⁷ *MO & O on Recon*, 16 FCC Rcd at 8257.

⁸ *Id.*

⁹ 47 U.S.C. § 316(a).

¹⁰ 47 C.F.R. § 1.87.

¹¹ See *In the Matter of Sage Broadcasting Corporation*, 23 FCC Rcd 8160 (Vid. Div. 2008).

staff.¹² In its July 18, 2011 letter response, L4 Media identified the location of each station's public inspection file – which is required to be at the station's main studio - as either a public library or non-profit center. Thus, it appears that the stations no longer have main studios with production facilities or employees.

8. Class A television stations are also required to broadcast a minimum of 18 hours per day and an average of at least three hours per week of programming produced within the market area served by the station. Since May 2009, L4 Media has failed to meet these statutory requirements. L4 Media admits in its July 18, 2011 letter that the thirteen stations were only operational from January 1 to May 1, 2009, from April 23 to April 29, 2010, and from October 25, 2010 to December 31, 2010. According to L4 Media, it kept the stations silent for extended periods of time in order to conserve its financial reserves until such time as it could sell the stations or obtain financing. In addition, while L4 Media notified the Commission on November 2, 2010 that the stations resumed operations on October 25, 2010, it is not clear whether the stations are currently operating. In its July 18, 2011 letter response, L4 Media represented only that the stations operated from October 25, 2010 to December 31, 2010. Moreover, while it electronically filed the 2010 4th Quarter Children's Television Programming Reports for the stations on July 18, 2011, certifying that the stations' children's programming schedule had resumed in the 4th quarter of 2010, it did not file the required Children's Television Programming Reports for the 1st and 2nd quarters of 2011, which were due by April 10 and July 10, 2011, respectively. It has now also failed to file 3rd and 4th quarter Reports for 2011, which were due by October 10, 2011 and January 10, 2012.¹³

9. We conclude that under these circumstances, L4 Media should have notified the Commission of its inability to meet the ongoing Class A eligibility requirements and requested a change in its stations' status from Class A to low power television pursuant to Section 73.6001 of the Commission's Rules.¹⁴ While the Commission has acknowledged that "in appropriately compelling circumstances involving a temporary inability to comply," a licensee can apply for an STA to operate at variance with the CBPA's operational and programming requirements without affecting its Class A status,¹⁵ the record now before us does not present such a case. Instead, the record indicates that L4 Media made a business decision to cease operation of its thirteen Class A television stations for financial reasons, and that the stations have been off the air for significant periods of time, and may continue to be silent. In addition, it does not appear that the stations maintain the required main studios.

10. IT IS THEREFORE ORDERED, That, L4 Media Group, LLC show cause why its authorizations for the thirteen Class A television stations listed in Attachment A to this *Order* should not be modified to specify the stations as low power television stations.

¹² See *Local One Texas, Ltd.*, 20 FCC Rcd 13251, nn. 4 and 5 (Med. Bur. 2005), citing *Jones Eastern of the Outerbanks, Inc.*, 7 FCC Rcd 6800 (1992), *Clarification of the Main Studio and Program Origination Rules for Radio and Television Broadcast Stations*, 3 FCC Rcd 5024, 5026 (1988), and Instruction II.F to FCC Form 302-CA.

¹³ We further note that Class A television stations were required to file a 2011 biennial ownership report with the Commission on or before December 1, 2011. See *Media Bureau Announces Opening of Filing Window for 2011 Biennial Ownership Reports, Form 323, Public Notice*, 26 FCC Rcd 13426 (MB 2011). Commission records show that L4 Media also failed to meet this obligation with respect to the thirteen stations listed in Attachment A to this *Order*.

¹⁴ 47 C.F.R. § 73.6001(d).

¹⁵ *M O & O on Recon*, 16 FCC Rcd at 8257, n.76.

11. Pursuant to Section 1.87 of the Commission's Rules, L4 Media Group, LLC may, no later than April 16, 2012, file a written statement why the thirteen licenses should not be modified as proposed herein. The written statement, if any, must be mailed to Office of the Secretary, Federal Communications Commission, 445 12th Street, S.W., Washington, D.C. 20554, ATTN: Barbara A. Kreisman, Chief, Video Division, Media Bureau. An electronic copy should also be sent to joyce.bernstein@fcc.gov. Upon review of the statement and/or additional information, the Commission may grant the modifications, deny the modifications, or set the matter for hearing. If no written statement is filed by April 16, 2012, the licensee will be deemed to have consented to the modification of its licenses from Class A television status to low power television status, and the modifications proposed in this *Order to Show Cause* will be deemed to serve the public interest.

12. IT IS FURTHER ORDERED, That a copy of this *Order to Show Cause* shall be sent by Certified Mail, Return Receipt Requested, to L4 Media Group, LLC and to its counsel, as indicated below:

Rick Ehrman
L4 Media Group, LLC
60 Settlers Ct.
Chanhasson, Minnesota 55317

L4 Media Group, LLC
219 Salt Grass Place
Melbourne Beach, Florida 32951-3326

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Fletcher, Heald & Hildreth
1300 North 17th Street, 11th Floor
Arlington, Virginia 22209

13. For further information concerning the proceeding, contact Joyce L. Bernstein, Video Division, Media Bureau, at Joyce.Bernstein@fcc.gov or (202) 418-1647.

FEDERAL COMMUNICATIONS COMMISSION

Barbara A. Kreisman
Chief, Video Division
Media Bureau

ATTACHMENT A

<u>Call Sign</u>	<u>Facility ID No.</u>	<u>City and State</u>
WBXM-CA	70412	Montgomery, Alabama
WBXG-CA	70413	Gainesville, Florida
WBXJ-CA	70414	Jacksonville, Florida
WZZZ-CA	70415	Orlando, Florida
WBXF-CA	70417	Des Moines, Iowa
WBXV-CA	70418	Louisville, Kentucky
WUBX-CA	70423	Durham, North Carolina
WBXU-CA	70424	Raleigh, North Carolina
WBXP-CA	70425	Memphis, Tennessee
WBXA-CA	70426	Birmingham, Alabama
WXSX-CA	70427	Savannah, Georgia
WBXC-CA	70428	Champaign/Urbana, Illinois
WBXT-CA	70430	Tallahassee, Florida