



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

November 9, 2004

VIA CERTIFIED MAIL - RETURN RECEIPT REQUESTED
AND FACSIMILE AT (212) 456-6202 and (202) 222-4799

ABC Holding Company, Inc.
77 W. 66th Street, Floor 16
New York, New York 10023

Re: Station KABC-TV
Los Angeles, California
File No. EB-04-IH-0497

Dear Licensee:

The Enforcement Bureau is investigating allegations that the ABC Holding Company, Inc. ("ABC" or "Licensee") broadcast indecent and/or profane material over Station KABC-TV, Los Angeles, California, in violation of Title 18 U.S.C. § 1464 and section 73.3999 of the Commission's rules, 47 C.F.R. § 73.3999. Specifically, it is alleged that the word "fuck" or a variation thereof (the "Expletive") was aired during the station's September 10, 2004, broadcast of the Miami-Florida State football game at approximately 6:30 p.m. PST. A copy of the specific complaint is attached. We direct the Licensee, as defined herein, pursuant to sections 4(i), 4(j), 308(b) and 403 of the Communications Act of 1934, as amended, 47 U.S.C. §§ 154(i), 154(j), 308(b), and 403, to provide the information and Documents, as defined herein, within thirty (30) calendar days from the date of this letter.

Instructions

If the Licensee requests that any information or Documents, as defined herein, 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, 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 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.

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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.

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, unless the Document is a recording or transcript, in which case it should be provided only for the period of time of the broadcast specified in the pertinent inquiry 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.

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.

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.

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

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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.

For each Document or statement submitted in response to the inquiries below, 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.

Unless otherwise indicated, the period of time covered by these inquiries is September 1, 2004, to the present.

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 audible sounds or language transmitted or disseminated over a station during the course of a radio broadcast.

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

"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,

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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, 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, shall mean to state his/her full legal name, current business address, and phone number. “Identify,” when used with reference to a document, shall mean 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. “Identify,” when used with reference to an entity other than a person, shall mean to state its name, current or last known business address, and current or last known business telephone number.

“Licensee” shall mean the ABC Holding Company, Inc., 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.

Inquiries: Documents and Information to be Provided

1. State whether the Licensee broadcast the Expletive over Station KABC-TV on September 10, 2004, at approximately 6:30 p.m. PST, and/or whether an identical image or interview was broadcast on that or any other date between 6:00 a.m. and 10:00 p.m.

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2. With regard to each broadcast referred to in the response to Inquiry 1 above, if the programming described in Inquiry 1 above does not accurately reflect the material broadcast over Station KABC-TV, describe any inaccuracies. Indicate, in particular, whether the material was edited before broadcast to remove the Expletive. Provide Documents to support the responses to this inquiry, including a videotape or DVD of each broadcast, and a written transcript of each.
3. If the material broadcast by Station KABC-TV includes the Expletive, with regard to each broadcast referred to in the response to Inquiry 1 above, provide a videotape of the broadcast. Provide any and all such recordings on videotape or DVD and a written transcript of the dialog on each videotape.
4. Did the Licensee broadcast all or any portion of the material described in Inquiry 1 above with the Expletive over any station licensed to it other than KABC-TV?
5. If the answer to Inquiry 4 above is "yes," provide, for each such broadcast:
 - a. the call sign, community of license and licensee;
 - b. the date(s) and time(s) of the broadcast(s); and
 - c. any and all videotapes, compact discs, audio tapes, transcripts or other Documents reproducing, discussing, or otherwise relating to the material so broadcast over the station. Provide any such videos and recordings on compact disc (CD-R). Also provide a written transcript of the material contained in each video and recording.
6. Provide copies of all Documents that provide the basis for or otherwise support the responses to Inquiries 1-5, above.

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 Documents and information 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, provide separate affidavits or declarations of each such

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individual that identify clearly to which responses the affiant or declarant is attesting. All such declarations provided must comply with section 1.16 of the Commission's rules, 47 C.F.R. § 1.16, 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. *See* 18 U.S.C. § 1001; *see also* 47 C.F.R. § 1.17.

The Licensee shall direct its response, if by messenger or hand delivery, to the attention of David J. Brown, Esq., Investigations and Hearings Division, Enforcement Bureau, Federal Communications Commission, c/o NATEK, 9300 East Hampton Drive, Capitol Heights, Maryland 20743. If sent by mail, the response should be sent to David J. Brown, Investigations and Hearings Division, Enforcement Bureau, Federal Communications Commission, 445 12th Street, S.W., Room 4-A462, Washington, D.C. 20554. The Licensee shall also, to the extent practicable, transmit a copy of the response via email to david.brown@fcc.gov.

Sincerely,



William H. Davenport
Chief, Investigations and Hearings Division
Enforcement Bureau

Cc: Susan L. Fox
The Walt Disney Company
1150 17th Street, N.W.
Suite 400
Washington, D.C. 20036

[REDACTED]

RECEIVED & INSPECTED
SEP 22 2004
FCC - MAIL ROOM

September 22, 2004

Federal Communications Commission
Enforcement Bureau
Investigations and Hearings Division
445 12th Street, SW Room 3-B443
Washington, DC 20554

Dear Sirs,

I wish to file a complaint regarding the use of the "F-Word" on the ABC-TV national broadcast of the Miami-Florida State football game on Friday September 10, 2004 approximately 6:30PM PST. During the halftime report USC football player Matt Leinart was interviewed wearing a shirt that said clearly showed the obscenity message "F--- the NCAA". ABC should not have shown Mr. Leinart on national television wearing a shirt with an obscene message. Please contact KABC and get a tape of the interview and you can confirm my complaint.

Sincerely yours,

[REDACTED]

INVESTIGATIONS & HEARINGS DIVISION
2004 SEP 29 P 3:03
FCC ENFORCEMENT BUREAU

(ATTACHMENT)

[REDACTED]