

FCC Violations

On November 8, 2019, the Media Bureau released a *Memorandum Opinion and Order* (DA 19-1159) (“*Order*”) in MB Docket No. 19-168,¹ finding that Mercury Broadcasting Company, Inc. (“Mercury”), licensee of television station KMTW, Hutchinson, Kansas, together with a number of other broadcast television licensees, had failed to negotiate in good faith with DIRECTV, LLC and AT&T Services, Inc. for consent to retransmit their respective station’s signals. On December 9, 2018, Mercury, together with several other broadcast television licensee defendants (collectively, the “Licensee Defendants”), filed an Application for Review of the *Order*, arguing that the Licensee Defendants had not committed any violation of the good faith negotiation requirements.²

On September 15, 2020, the Commission released a *Memorandum Opinion and Order and Notice of Apparent Liability for Forfeiture* (FCC 20-122) (“*NAL*”) denying the Application for Review and imposing forfeiture on the Licensee Defendants.³ On October 15, 2020, the Licensee Defendants filed a response to the *NAL*, arguing that the Commission wrongly concluded that the Licensee Defendants had violated the good faith negotiation requirements, and that the proposed forfeitures in the *NAL* should be reduced or dismissed in their entirety.⁴ Mercury also submitted a separate Supplemental Request for Cancellation or Reduction of Forfeiture based on its inability to pay the forfeiture as imposed in the *NAL*.

On July 28, 2021 the Commission released a *Forfeiture Order* (FCC 21-89) (“*Forfeiture Order*”) affirming the *NAL*, but reducing the forfeiture imposed on Mercury based on its demonstrated inability to pay.⁵ Mercury submitted payment of the reduced forfeiture amount on August 10, 2021, and it now considers this matter closed.

¹ See generally *DIRECTV, LLC; AT&T Services, Inc., Complainants v. Deerfield Media, Inc., et al.*, Memorandum Opinion and Order, 34 FCC Rcd. 10367, 10367-68, ¶ 1 (MB 2019).

² See generally Defendants’ Application for Review, MB Docket No. 19-168 (filed Dec. 9, 2019).

³ *DIRECTV, LLC; AT&T Services, Inc., Complainants v. Deerfield Media, Inc., et al.*, Memorandum Opinion and Order and Notice of Apparent Liability for Forfeiture, 25 FCC Rcd. 10695, 10696-97, ¶ 1 (2020).

⁴ See generally Defendants’ Response to Memorandum Opinion and Order and Notice of Apparent Liability for Forfeiture, MB Docket No. 19-168 (filed Oct. 15, 2020).

⁵ See generally *AT&T Services, Inc., Complainants v. Deerfield Media, Inc., et al.*, MB Docket No. 19-168, CSR No. 8979-C, Forfeiture Order, FCC 21-89 (rel. July 28, 2021).