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

In the Matter of:	)	
	)	Facility ID No. 25382
Griffin Licensing, L.L.C.	)	NAL/Acct. No.: 0841420024
Licensee of Station KWTV-DT	)	FRN: 0015452238
Oklahoma City, Oklahoma	)	

MEMORANDUM OPINION AND ORDER

Adopted: August 14, 2014 **Released: August 14, 2014**

By the Chief, Video Division, Media Bureau:

I. INTRODUCTION

1. The Video Division ("Bureau") has before it a Petition for Reconsideration ("Petition"), filed by Griffin Licensing, L.L.C.[1] ("Petitioner"), licensee of Station KWTV-DT ("Station"). Licensee seeks reconsideration of a forfeiture in the amount of Eight Thousand Dollars ($8,000) issued by the Video Division for the Licensee's failure to publicize the existence and location of the station's Children's Television Programming Reports, as required under Section 73.3526(e)(11)(iii) of the Commission's rules. For the reasons set forth below, we deny reconsideration.

II. BACKGROUND

2. On January 24, 2008, the Video Division issued a Notice of Apparent Liability for Forfeiture proposing a monetary forfeiture of $10,000 for the Licensee's willful and repeated violations of of Section 73.3526(e)(11)(iii) of the Commission's Rules.[2] Petitioner filed a timely response on February 21, 2008 arguing that the forfeiture should be cancelled or reduced.[3] Petitioner argued that (i) Section 73.3526(e)(11)(iii) of the Rules was impermissibly vague regarding what constituted appropriate efforts to publicize the existence and location of the reports and (ii) there should be a substantial reduction in the forfeiture given the Station's history of compliance.[4]

3. In a February 17, 2010, Forfeiture Order, the Video Division reduced the forfeiture to $8,000 based on the Licensee's history of compliance with the Commission's Rules.[5] Licensee filed a Petition for Reconsideration on March 19, 2010.

III. DISCUSSION

[1] At the time the NAL was issued, the Licensee was known as Griffin Entities, L.L.C. At the time the Petition for Reconsideration was filed, Licensee was known as Griffin OKC Licensing, L.L.C.

[2] *Griffin Entities, L.L.C.*, Notice of Apparent Liability for Forfeiture, 23 FCC Rcd 790 (Vid. Div. 2008).

[3] Griffin OKC Licensing, L.L.C., Response to Notice of Apparent Liability (Feb. 21, 2008) ("Licensee NAL Response").

[4] Licensee NAL Response at 2-4.

[5] *Griffin OKC Licensing, L.L.C.*, Forfeiture Order, 25 FCC Rcd 1403, 1405 (Vid. Div. 2010).

4. Petitions for reconsideration are only appropriate where the petitioner either demonstrates a material error or omission in the underlying order or raises additional facts not known or not existing until after the petitioner's last opportunity to present such matters, or the Commission determines that consideration of the facts is required in the public interest.[6] A petition for reconsideration that simply reiterates previously considered arguments will be denied.[7] Arguments in a petition for reconsideration being raised for the first time will be considered only if they are based on changed circumstances or additional facts not known or existing at the time of petitioner's last opportunity to present such matters, or if consideration of such arguments is required to serve the public interest.[8]

5. Petitioner first argues that it did not have fair notice that its actions could result in forfeiture because the rule in question was impermissibly vague. Petitioner further argues that its use of the Internet to publicize the existence and location of the reports was an entirely appropriate method.[9] Petitioner's argument regarding notice is without merit, as its 2006 own renewal application admitted its awareness of the rule and the Station's violation of the rule.[10] The fact that the Licensee reported a violation of the rule and indicated that it had corrected it going forward by broadcasting the required announcements makes clear that the rule was not so vague as to deny the Petitioner notice of the violation. It is hard to reconcile a lack of notice with the Licensee's own reporting of the violation in question.

6. Moreover, the *Report and Order* announcing this requirement specifically listed "periodic on-air announcements" as "an appropriate manner" to publicize the existence and location of the reports.[11] We conclude that the rule, drafted in 1996, did not envision a notice posted on a station's website to be sufficient to notify the entire viewing public. Moreover, unlike in *Trinity Broadcasting*,[12] the Licensee cannot reasonably argue it was not on notice of the violation because it reported the violation itself.

7. Petitioner next argues that the Station's history of compliance, specifically its participation in the Alternative Broadcast Inspection Program ("ABIP"), means that the forfeiture amount should be substantially reduced.[13] The Commission has already reduced the forfeiture amount based on the Licensee's history of compliance, and Licensee's participation in ABIP is not a fact that was not known or did not exist until after the petitioner's last opportunity to present such matters. We therefore conclude this argument is moot. Nonetheless, we further find that participation in ABIP is not a sufficient

[6] *See* 47 C.F.R. § 1.106(c); *Ernesto Bustos*, Memorandum Opinion and Order, DA 14-827, 2014 WL 2767274 at *1 (Vid. Div. Jun. 18, 2014); *EZ Sacramento, Inc.*, Memorandum Opinion and Order, 15 FCC Rcd 18257, 18257, para. 2 (EB 2000).

[7] *Saga Communications of Illinois, LLC*, Memorandum Opinion and Order, 26 FCC Rcd 5958, 5959 (MB 2011) (rejecting an argument from a petition for reconsideration because it did not raise any new information reflecting changed circumstances, did not present additional facts not know at the time of the last filing, and did not attempt to show anything more than a disagreement with the Commission's finding).

[8] 47 C.F.R. § 1.106(c).

[9] Griffin Licensing, L.L.C., Petition for Reconsideration at 2-5.

[10] File No. BRCT-20060130AMU, Exh. 24. ("In the course of preparing this renewal application, the Licensee discovered that the station did not adequately publicize the existence and location of its FCC Form 398 Children's Television Programming Reports. The Licensee has corrected this oversight by airing the required announcement . . . and instructing station personnel to air a similar announcement on a weekly basis.").

[11] *Policies and Rules Concerning Children's Television Programming*, Report and Order, 11 FCC Rcd 10660, 10692-93 (1996).

[12] *Trinity Broad. Of Fla. v. F.C.C.*, 21 F.3d 618, 628 (D.C. Cir. 2000).

[13] Griffin Licensing, L.L.C., Petition for Reconsideration at 5-6.

basis for a further reduction here.[14]

IV. ORDERING CLAUSES

8. Accordingly, for the reasons discussed above, IT IS ORDERED, that the Petition for Reconsideration filed by Griffin Licensing, L.L.C. IS DENIED.

9. IT IS ALSO ORDERED, pursuant to Section 503(b) of the Communications Act of 1934, as amended, and Sections 0.283 and 1.80 of the Commission's Rules, that Griffin Licensing, L.L.C. IS LIABLE FOR A MONETARY FORFEITURE in the amount of Eight Thousand Dollars ($8,000) for its apparent willful and repeated violations of Section 73.3526 of the Commission's Rules.

10. IT IS FURTHER ORDERED, pursuant to Section 1.80 of the Commission's Rules, that within 30 days of the release date of this Memorandum Opinion and Order, that Griffin Licensing, L.L.C., SHALL PAY the full amount of the proposed forfeiture. Payment of the proposed forfeiture must be made by check or similar instrument, payable to the order of the Federal Communications Commission. The payment must include the NAL/Acct. No. and FRN No. referenced in the caption above. Payment by check or money order may be mailed to Federal Communications Commission, at P.O. Box 979088, St. Louis, MO 63197-9000. Payment by overnight mail may be sent to U.S. Bank-Government Lockbox #979088, SL-MO-C2-GL, 1005 Convention Plaza, St. Louis, MO 63101. Payment by wire transfer may be made to ABA Number 021030004, receiving bank: TREAS NYC, BNF: FCC/ACV--27000001 and account number as expressed on the remittance instrument. If completing the FCC Form 159, enter the NAL/Account number in block number 23A (call sign/other ID), and enter the letters "FORF" in block number 24A (payment type code). Requests for full payment of the forfeiture proposed in this *NAL* under the installment plan should be sent to: Associate Managing Director- Financial Operations, 445 12th Street, S.W., Room 1-A625, Washington, D.C. 20554.[15]

11. IT IS FURTHER ORDERED that copies of this Memorandum Opinion and Order shall be sent, by First Class and Certified Mail, Return Receipt Requested, to Griffin Licensing, L.L.C., and to its counsel, David A. O'Connor, Wilkinson Barker Knauer, LLP, 2300 N Street N.W., Washington, D.C., 20037.

FEDERAL COMMUNICATIONS COMMISSION

Barbara A. Kreisman
Chief, Video Division
Media Bureau

[14] *Lake Superior Community Broadcasting*, Forfeiture Order, DA 14-647 at ¶ 10 (Vid. Div. May 14, 2014).

[15] *See* 47 C.F.R. § 1.1914.