

Before the
Federal Communications Commission
Washington, DC 20554

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OFFICE OF THE SECRETARY

In the Matter of
Public Interest Obligations
Of TV Broadcast Licensees

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To: The Commission

COMMENTS
of
PEOPLE FOR BETTER TV

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March 27, 2000

SUMMARY

People for Better TV is a broad-based national coalition concerned that television in the future become a place not only for entertainment, but a trusted source of education for our children and civic discussion for our community. We commend the Federal Communications Commission for opening this Inquiry into the Public Interest Obligations of Digital Television Broadcasters, and we repeat our call for the Commission to begin a rulemaking proceeding to ensure that sensible guidelines are put in place so that all members of the public benefit from digital television.

Our Comments include numerous letters from members of our coalition. These submissions range from the reports of citizens who visited stations and reviewed Quarterly Reports in the public files, to the extensive arguments of the Consumer Federation of America and Children Now, to the analysis of the Benton Foundation and the Project on Media Ownership. We trust the Commission will respect and reflect upon this public demonstration of concern about the need to preserve the public interest standard in the digital age, and set forth clear rules so that both broadcasters and the public can know what it means to operate in the public interest.

We recommend that all digital television broadcasters be required to comply with their public interest obligations on all channels they are licensed to use, as well as in their provision of ancillary and supplementary services. We oppose any reliance by the Commission upon supposedly "voluntary codes of conduct," however we support the adoption of a flexible approach to enforcing minimum requirements. We recommend that any deviation by a broadcaster to the Commission's minimum requirements be conditioned upon some sort of approval by the community of license.

Along with the Consumer Federation of America, we recommend that the Commission adopt rules that protect consumers. Specifically, the Commission should adopt guidelines to limit potential invasions for privacy by digital broadcasters, and guidelines to limit potentially abusive selling practices. Furthermore, the Commission should take steps to ensure that digital television does not contribute to the digital divide, by monitoring equipment costs and subscription charges.

People for Better TV endorses the Comment of Children Now, and recommends the immediate adoption of guidelines so that digital television broadcasters are in compliance with the Children's Television Act. We recommend that the Commission's Three-Hour Rule be applied proportionately to digital broadcasters who multicast. In addition, while we oppose censorship, we recommend the adoption of standards which give parents tools to screen programs they do not want their children to watch, such as a more advanced V-Chip, and an opportunity to "click-through" to ratings created by independent groups.

Academic research and anecdotal evidence strongly suggests that local broadcasters are not providing adequate discussion of local issues; thus People for Better TV recommends that digital broadcasters be required to provide one hour a day of local public affairs programs, and one public service announcement for every four commercials. In addition, we recommend that broadcasters be required to discover and serve the needs and interests of all segments of the community of license. New Internet technologies can assist in both discovering local needs and making it easier for the public to review the broadcasters' claims of service in their public files.

Finally, digital broadcasters should be in compliance with the Commission's EEO rules, and they should be required to use new technologies to make their programs more accessible to the disabled, and to those who speak languages other than English.

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People for Better TV hereby submits comments in response to the Federal Communications Commission's ("Commission" or "FCC") Notice of Inquiry, In the Matter of Public Interest Obligations of TV Broadcast Licensees, MM Docket No. 99-360 (rel. Dec. 20, 1999) ("NOI"). People for Better TV is a national broad-based coalition established to ensure that television broadcasters are responsive to local community needs. A current list of member organizations is at Appendix A. The steering committee of People for Better TV includes the following organizations: Children NOW, Civil Rights Forum on Communications Policy, Communications Workers of America, Consumer Federation of America, League of United Latin American Citizens, National Association of the Deaf, National Organization for Women, National Urban League, Project on Media Ownership and U.S. Catholic Conference. These groups recognize the tremendous influence of television, and have joined together to encourage the Commission to adopt policies that serve the public.

I. Introduction and Background

On June 3, 1999, People for Better TV filed a Petition for Rulemaking and Petition for Notice of Inquiry at the Commission, explaining that the Telecommunications Act of 1996

("1996 Act") requires that the FCC determine the public interest obligations of digital broadcasters. People for Better TV noted that digital television broadcasting is a new service, requiring a new look at the "public interest, convenience, and necessity standard" so firmly imbedded in broadcast policy. Furthermore, People for Better TV argued that the Commission could not maintain that digital broadcasters are operating in the public interest, as Congress intended, without asking the public what is in their interest. Thus, People for Better TV commends the Commission for initiating this inquiry. Through its comments, People for Better TV intends to provide the Commission with the perspectives of the viewing audience and local grassroots organizations from areas throughout the nation.

Broadcasters' obligation to serve the local community is the core of the public interest standard and the underlying rationale for their free license to exclusive use of public airwaves.¹ Since the passage of the Communications Act of 1934, broadcasters have been entrusted to serve their local community needs. This responsibility is expressed in both the statute and in court rulings. Under Section 307(b) of the Communications Act of 1934, applicants for broadcast licenses must agree to provide programming service to their particular community of license.² The D.C. Circuit has affirmed this obligation, noting that "[i]n requiring a fair, efficient and equitable distribution" of service, the Communications Act encompasses "not only the reception

¹ The local basis of its service distinguishes broadcasting from cable and satellite services which consist almost entirely of national programming and retransmission of local TV stations. News, public affairs programming and other opportunities for local self-expression are important "elements usually necessary to meet the... needs and desires of the community in which the station is located..." as enumerated in the FCC's classic formulation of public interest programming obligations. Report re En Banc Programming Inquiry, 44 FCC 2203, 2314 (1960).

² 47 U.S.C. § 307(b).

of an adequate signal but also community needs for programs of local interest and importance and for organs of local self-expression.”³ Thus, only by considering the views of the local audience can the Commission develop a framework of regulation for digital broadcasters that truly serves the public interest.

We note however that the Commission’s inquiry alone does not satisfy the legislative mandate to set forth clear regulations so that both broadcasters and the public know exactly what is meant by the public interest obligations of digital broadcasters. Therefore, we request that following this Inquiry, the Commission initiate a rulemaking on the public interest obligations of digital broadcasters.

II. Challenges Unique to the Digital Era

A. The Commission Should Require DTV Broadcasters to Comply with Public Interest Obligations on All Channels that They Use.

Congress intended digital broadcasters to comply with public interest obligations on all of their channels. As the Commission notes in paragraph 11 of the NOI, when Congress authorized the Commission to “issue additional licenses for advanced television services.” 47 U.S.C § 336(a), it made clear that:

Nothing in this section shall be construed as relieving a television broadcasting station from its obligation to serve the public interest, convenience, and necessity. In the Commission's review of any application for renewal of a broadcast license for a television station that provides ancillary or supplementary services, the television licensee shall establish that all of its program services on the existing or advanced television spectrum are in the public interest.⁴

³ Pinellas Broadcasting Co. v. FCC, 230 F.2d 204, 206 cert. denied, 350 U.S. 1007 (D.C. Cir. 1956).

⁴ 47 U.S.C § 336(d) (emphasis added).

Moreover, Congress' decision to treat the spectrum set aside for "advanced television" service differently from other new services by exempting it from auction procedures, 47 U.S.C § 309(j)(2)(B) provides further evidence that Congress intended broadcasters to "pay" for the valuable gift of public property by performing public service.

1. Rather Than Rely on Broadcasters to Abide by a Voluntary Code of Conduct, the Commission Should Adopt a Flexible Approach to Enforcing Minimum Requirements.

To implement the legislative directive to impose obligations on digital broadcasters, the Commission should adopt minimum public interest requirements. By setting forth minimum measurable requirements, the Commission would ensure that the public interest is served. In contrast, self-regulatory voluntary codes of conduct have historically not been successful in ensuring that participants adhere to the prescribed conduct. See Angela J. Campbell, Self-Regulation and the Media, 51 Fed. Comm. L.J. 712 (1999).⁵ Establishing a standard facilitates the evaluation of licensees at renewal time by both the Commission and the public.

While People for Better TV rejects the idea of "voluntary obligations," we believe that the Commission could incorporate flexibility into its enforcement of the minimum requirements, thereby providing broadcasters with some leeway in deciding how to meet their obligations. Such a policy could resemble the three-hour processing guideline for children's television programming. Under that guideline, broadcasters have several means of demonstrating their

⁵ Professor Campbell's article specifically addresses the viability of voluntary code for digital broadcasters and finds that such an approach is unlikely to be successful. According to Campbell, "There are three reasons to be skeptical about the Advisory Committee's recommendation for a voluntary code. First, it is unclear whether the NAB will follow it. Second, even if the NAB does adopt a voluntary code...it is doubtful that the code will be effective in achieving the stated goals. Finally, the Model Voluntary Code raises similar questions regarding voluntariness that could cause it to be subject to constitutional challenge." Id. at 764.

commitment to providing educational and informational programming for children.⁶

To ensure that broadcasters are meeting their obligations to their community and to facilitate review of their practices, People for Better TV suggests that broadcasters who wish to fulfill their obligations in a manner that deviates from the Commission's standards should enter into agreements with the local community which outline how they intend to serve the public interest. These community contracts could be crafted through a negotiating process similar to the one currently employed by cable operators and local franchising authorities. Alternatively, broadcasters could adopt other means of ensuring that the community agrees to its public interest plan. For example, a broadcaster could invite community involvement by drafting a public interest plan and allowing citizens to vote on it either in person or on the Internet. Under such an arrangement the broadcaster should be required to televise announcements and provide information on the Internet describing its proposal and explaining how viewers could express their opinion. Regardless of how the broadcaster and the community reach agreement, these

⁶ Under the Commission's rules implementing the Children's Television Act, a broadcaster can demonstrate that it has met its children's programming obligation in several ways:

"(A) By checking a box on its renewal application and providing supporting information indicating that it has aired three hours per week of regularly scheduled, weekly shows that are 30 minutes or longer and that otherwise meet the definition of 'core programming' ... or

(B) By showing that it has aired a package of different types of educational and informational programming that, while containing somewhat less than three hours per week of core programming, demonstrates a level of commitment to educating and informing children that is at least equivalent to airing three hours per week of core programming." Policies and Rules Concerning Children's Television Programming Revision of Programming Policies for Television Broadcast Stations, 11 FCC Rcd 10660, 10718-719 (1996).

Moreover, the Commission provides that "renewal applications that do not meet this guideline will be referred to the Commission, where the applicant will have a full opportunity to demonstrate compliance with the CTA by, for example, relying in part on sponsorship of core educational and informational programs on other stations in the market that increases the amount of core educational or informational programming on the station airing the sponsored program and/or on special nonbroadcast efforts which enhance the value of children's educational and informational television programming." Id.

public interest plans should be kept in the broadcaster's public files, so that the FCC and the public could view them and assess whether the broadcaster was adhering to them. Only by adopting such a framework would the FCC ensure that the agency and the public would be able to evaluate a broadcaster's compliance with its public interest obligations.

2. Digital Broadcasters Public Interest Requirements Should Apply to All Channels Including Ancillary and Supplementary Services.

The broadcasters' public interest obligations should apply to every channel that they use. Thus, in a multicasting environment with program streams of varying definition, the Commission should review the broadcasters' use of each channel. Such an approach would prevent broadcasters from segregating certain programming streams, e.g., local affairs, programming for minorities, political discourse, or children's programming, from other more economically profitable ones, and placing these types of programs on channels with less desirable features. Similarly, broadcasters' responsibilities to ensure access to disabled viewers through closed captioning and video description should apply to each of their channels. Without such a policy, certain individuals might be relegated to receiving lower quality services. By making the public interest obligations apply to all channels, the Commission will ensure that needs of the entire community, including disabled people, children and ethnic and racial minorities are met.

In addition, the Commission must apply public interest obligations to the broadcasters' provision of ancillary and supplementary services. Congress clearly stated that the offering of such services must be "consistent with the public interest, convenience and necessity."⁷

Moreover, in Section 336(b), Congress stated that, "in prescribing the regulations required by

⁷ 47 U.S.C. §336(a)(2).

subsection (a), the Commission shall (3) apply to any other ancillary or supplementary service such of the Commission's regulations as are applicable to the offering of analogous services by any other person.” Thus, DTV licensees should have the same responsibility to meet their communities’ needs through these pay services as they do through free broadcasting.

People for Better TV supports the Advisory Committee’s recommendation that broadcasters who choose to take advantage of their datacasting capabilities also use this spectrum to transmit information on behalf of civic institutions.⁸ Moreover, the broadcasters should make all datacasting accessible to individuals with disabilities. Within these parameters, People for Better TV favors a flexible approach that allows broadcasters some leeway in deciding how they will meet their obligations.

B. The Commission’s Rules for Digital Television Should Include Protections for Consumers.

The Commission’s proposals for regulating digital television must take into account the new technology’s potentially adverse impact on consumers. In the attached comments,⁹ the Consumer Federation of America (“CFA”), a member of People for Better TV’s steering committee, sets forth the unique consumer concerns raised by the development of digital television. These concerns involve the broadcasters’ potential use of interactive technology to invade consumers’ privacy and promote unfair sales, and the broadcasters’ potential pursuit of profits in a manner that widens the digital divide and threatens the diverse expression of ideas.

⁸ See NOI at ¶ 13.

⁹ See Appendix at C-2.

1. The Commission Should Adopt Rules to Protect Consumer Privacy and Limit Abusive Selling Practices.

By converging Internet capabilities with broadcasting, digital television permits interactivity between broadcasters, advertisers and viewers. This technological development will allow for the sale of goods and services over the television as well as the collection of information from viewers about their programming and product choices. To address potential invasions of privacy and prevent targeted “overselling,” CFA and People for Better TV recommend that the Commission require broadcasters to comply with privacy guidelines that require information collectors to take the following steps: provide notice to consumers of their practices; obtain consent before sharing information with either corporate affiliates or third parties; and allow consumers access to all information that has been collected about them.¹⁰ In addition, to limit abusive selling practices, CFA and People for Better TV ask the Commission to adopt rules allowing post-purchase remedies, as well as regulations restricting interactive advertising directed at children. The Commission should also work with the Federal Trade Commission and consumer groups to set appropriate standards regarding the Children’s Online Privacy Protection Act as it applies to digital television.

2. The Commission Should Develop Steps to Ensure DTV Does Not Contribute to the Digital Divide.

The Commission should monitor both equipment costs and broadcaster subscription charges. These steps would help ensure that digital television broadcasters are not allowed to

¹⁰ See Appendix at C-2, CFA, p.23. See also Appendix at B-3, Lake Snell Perry, May 1999: 80 percent of voters favor FCC guidelines to protect consumer privacy, 83 percent think establishing privacy protection guidelines is important.

maximize their economic benefits to the detriment of lower income viewers. In its comments, CFA notes two ways in which the development of digital television may have an adverse impact on some members of the public. First, CFA questions whether the adoption of digital television will widen the digital divide. As CFA states in its comments, “[t]he expense of equipment, the cost of services, and the targeting of marketing points to a commercial model in which high-value, high income consumers participate and are targeted.”¹¹ CFA further states,

Companies introducing technologies can identify the likely “adopters” and orient their product distribution to maximize the penetration within that market segment. The competitive energies of the industry are focused on the “premier” segment, with innovative offerings and consumer-friendly pricing, while the remainder of the population is ignored or suffers price increases. The merging of informational, educational and employment opportunities over the Internet with the commercial activities of interactive TV raises concerns that the commercial model might further isolate those who have been disadvantaged by the digital divide.¹²

CFA and People for Better TV urge the Commission to monitor the market to determine whether equipment costs, such as set top boxes and digital television sets are affordable. In addition, the Commission should monitor the costs of equipment which makes television available to the disabled. In general, in adopting digital television policies, the Commission should consider those segments of the population that may be left out of the transition to digital.

Second, CFA and People for Better TV are concerned that economic pressures may lead digital broadcasters to limit the diversity of their offerings, especially educational, cultural and informational programming, or cause broadcasters to provide such programming only on a subscription basis. The Commission cannot permit digital broadcasters to make public

¹¹ See Appendix at C-2, p.6.

¹² Id.

information available only to viewers who can afford to access it through pay-per-view or subscription services. In some markets today, public, educational, and governmental offerings appear only on designated PEG cable channels, and thus are not accessible to viewers who cannot afford to subscribe to cable television. The Commission should not permit digital broadcasters to adopt a similar model. Segregating such informational fare to subscription channels would adversely impact all viewers, and would have a disproportionately detrimental effect on lower income viewers. To foster public discourse, the Commission should require that all Americans have access to civic programming. Indeed, as CFA notes, the Commission should have policies in place that obligate broadcasters to provide “programming beyond what is simply profitable.”¹³

We recommend that the Commission monitor pay-per-view and subscription charges, and reserve the right to adopt regulations to ensure that broadcasters charge reasonable rates for any non-free television services they offer.¹⁴ While People for Better TV’s comments focus mainly on the provision of public affairs and informational programming to all members of the public, we are also concerned that digital broadcasters not place entertainment programming out of reach of many viewers. In the digital model, broadcasters may find it economically beneficial to charge viewers to watch certain programming including the Super Bowl or popular sitcoms. The Commission must adopt a regulatory framework to ensure that popular television does not become a luxury item.

¹³ See Appendix at C-2, p. 8.

¹⁴ See Appendix at B-3, Lake Snell Perry, May 1999. 73 percent of voters favor FCC rate regulation of pay-per-view programming, 75 percent think this is important.

C. Digital Broadcasters Should Fulfill their Obligations to Children by Offering Educational Programming and Services as well as Additional Rating Information.

The Commission must ensure that broadcasters continue to meet their obligations to children in the digital age by providing educational and informational programming. The Commission should adopt standards for making additional program rating information available so that parents can more easily determine which shows they want their children to watch.

1. The Three-Hour Rule Should be Transferred Proportionately to DTV.

The Commission should adopt Children Now's proposal for applying the current Children's Television Act to digital television. In its extensive comments attached,¹⁵ Children Now, a member of the People for Better TV steering committee, has proposed a means of implementing the 3-hour children's programming guideline in a manner that takes into account both the increased number of programming hours offered by digital broadcasters as well as variations in the viewers' experience which depend on the whether the broadcaster airs the programming in standard or high definition. Moreover, Children Now maintains that the Commission's rules concerning children's advertising limits, host-selling and program-length commercials must be met on all program services including ancillary and supplemental services. The Commission should adopt Children Now's proposals to ensure that digital broadcasters fulfill their obligation to children.

The public's consistent interest in the provision of quality educational programming for children is reflected in the letters People for Better TV has collected from across the country.

¹⁵ See Appendix at C-1.

Viewers have expressed concerns that the current amount of programming is insufficient, that the quality is poor, and that the stations air too many commercials during children's shows. For example, Natalie Gallant from NOW in Boston, writes that the local NBC affiliate offers no programming for children under 6 years old and only one program for children under 11 years and she questions the educational value of the station's programs. Likewise, Dr. W. Curtiss Priest, director of the Center for Information, Technology and Society in Boston, expressed concern that the amount of children's programming at local Boston station WBZ had declined 50% from 1997 to 1999 after the station was acquired by CBS.¹⁶ Letters from other cities voice similar concerns. In Detroit, Peggy Goodwin found that her local stations provide quality programming for children 5-10 years old, but fail to provide "quality, educational programs for older youth."¹⁷ Concerns about the lack of quality programming have also been expressed by young people themselves, as can be seen in the attached letter from 17 year-old Elizabeth Cohen in New York.¹⁸ Finally, several viewers, including Doshia Harris, Susie Green, and Pam Parks from Georgia, have written to the Commission complaining about the commercialization of children's programming.¹⁹ The Commission should consider these letters from individual viewers throughout the country as a call to action to ensure that digital broadcasters meet their obligations to children.

¹⁶ See Appendix at D-1a, for both Gallant and Priest letters.

¹⁷ See Appendix at D-3b.

¹⁸ See Appendix at D-1a.

¹⁹ See Appendix at D-2a.

2. The Commission Should Adopt Standards to Make Independent Ratings Available.

While People for Better TV is opposed to censorship, we believe the Commission must respond to parents' demands for more information about the content of programs. Thus, the Commission should modify the V-Chip regulations in the digital environment to provide more information to viewers. Congress anticipated that new technology would allow for changes in the blocking system. It stated, "[a]s new video technology is developed, the Commission shall take such action as the Commission determines appropriate to ensure that blocking service continues to be available to consumers."²⁰ In addition, the Commission has indicated its preference for an "open, flexible approach to the development of industry standards and regulations that would accommodate the possible development of multiple rating systems."²¹

People for Better TV recommends that digital broadcasters be required to provide viewers a means of discovering what other groups think about the content of programs. Through the increased information capability of digital technology the present ratings system can be substantially improved. Broadcasters should provide access to much more information, from a variety of independent sources, about the nature (such as violent or sexual content) of the programs being broadcast, as they are being broadcast. This information would enable parents to screen out programs they do not want in their homes.

We encourage the FCC to conduct meetings on the next stage of the V-Chip and the ratings system. The FCC, working with software developers, should consider the following

²⁰ 47 § U.S.C. 330(c)(4).

²¹ Technical Requirements to Enable Blocking of Video Programming based on Program Ratings, 13 FCC Rcd 11248, 11251 (1998).

questions: Can filtering software that reads and screens predetermined codes be downloaded to the next generation of television sets to adapt to a more complex digital environment? Just as television stations are working with advertisers to develop “click through” technologies for viewers to buy products they see during commercial or programming, can technologies allow viewers to “click through” to independent ratings by local groups, or national groups such as the National Institute for Media and the Family?²²

Viewers clearly want more information on program content. Survey results indicate that 84 percent of voters favor an independent ratings system, while 87 percent think developing such a system is important.²³ These findings are echoed by citizens’ letters such as the one from Rebecca Rogers of Carolina Peace Resource Center in Columbia, South Carolina. Ms. Rogers writes, “digital broadcasters should be required to provide an easy to understand independent ratings system about the violent and sexual content of programs.”²⁴ Digital technology will allow for the provision of multiple rating systems both by using the additional spectrum available and by providing links to the Internet where such information can be accessed.

III. Responding to the Community

Local television stations, not networks, not corporate collections of broadcast operations, but local television stations are licensed by the FCC. If the public interest standard is to mean

²² See Television Ratings (visited Mar. 20, 2000) <<http://www.mediaandthefamily.org/rate.ctm?s=tv>>.

²³ See Appendix at B-3, Lake Snell Perry, May 1999.

²⁴ See Appendix at D-2b.

anything in the digital age, People for Better TV asserts it must mean program service to the local community, and *all* segments of the local community, men and women, minority and majority, urban and rural. Furthermore, while the FCC may not be able to ensure that broadcasters are serving the entire community, it can put in place mechanisms to encourage a dialogue and some level of accountability between stations and those they are licensed to serve. These principles should guide the Commission's determination of the minimum public interest obligations of broadcasters.

While local service has long been a bedrock goal of the public interest standard, it has for most of the history of broadcast regulation been more promise than practice. Two of the four programming requirements in the 1946 *Blue Book* focused on local programs and "the discussion of local issues,"²⁵ and in 1960 the top two FCC programming priorities were "opportunity for local self-expression" and "use of local talent."²⁶ Still, as *Office of Communications, United Church of Christ v. Federal Communications Commission* (hereinafter *UCC v FCC*)²⁷ and the subsequent *Kerner Commission Report*²⁸ on the neglect of minority audiences by television stations made clear, an emphasis on local programs did not necessarily mean all segments of the local community were served. With the *Ascertainment Primer* in 1971, the FCC finally put forth

²⁵ See Public Service Responsibilities of Broadcast Licensees, 12, 36-40 (1946) ("Blue Book").

²⁶ Commission Policy on Programming, 20 Rad. Reg. (P&F) 1901, at 1913 (1960).

²⁷ Office of Communications, United Church of Christ v. Federal Communications Commission, 359 F.2d 994 (D.C. Cir. 1966).

²⁸ Report of the National Advisory Commission on Civil Disorder, Otto Kerner, Chairman, 210 (Bantam, 1968).

guidelines to “aid broadcasters in being more responsive to the problems of their communities.”²⁹

Thus, stations were not only informed about a wider range of local issues, and thus able to respond, they actually became more accountable to all segments of the community.

For thirteen years the Commission struggled to improve on the sad history of the prior forty. But in 1984 the Commission (and the political tide) reversed course and ruled that local service to all segments of the local community would be best promoted not by clear guidelines, but by the laissez-faire practices of the “Roaring 20’s” when broadcasters were first being regulated.³⁰ Despite the bold declaration of the National Association of Broadcasters of billions of dollars of local service,³¹ what we have found is a retreat from “the discussion of local issues” by too many broadcasters, and a destruction of community affairs departments justified by “de-regulation.” This state of affairs should not be carried into the digital age.

A. Digital Television Broadcasters Should Be Required to Provide One Hour a Day of Local Public Affairs Programming.

1. Local Broadcasters are Failing to Address Local Needs.

“There are not enough local programs dealing with important local issues. Local elections had very little public programming on local transportation or initiative issues or

²⁹ Primer on Ascertainment of Community Problems by Broadcast Applicants, 27 FCC 2d 650, 651 (1971).

³⁰ Revision of Programming and Commercialization Policies, Ascertainment Requirements, and Program Log Requirements for Commercial Television Stations, 98 FCC 2d 1076, 1116 (1984).

³¹ A National Report on the Broadcast Industry’s Community Service, National Association of Broadcasters (April 1998) claimed \$6.8 billion dollars of service to community. However, as demonstrated by A Methodological Evaluation of the NAB Report, Project on Media Ownership, (January 2000), the NAB’s report cannot be taken seriously. See Appendix at B-2.

information about what is happening in our state legislature,” writes Phyllis Rowe, President of the Arizona Consumers Council.³² We have heard this complaint hundreds of times over the past year from citizens from all walks of life from across the country. People for Better TV recommends that all digital television broadcasters be required to devote at least one hour a day to discussion of local issues important to the community of license.³³ While recognizing that a wide range of issues important to the community will be national and international in scope, we suggest that the unique qualities of local television service are best suited to addressing local concerns. As noted above, this requirement should not be relegated to only one channel or program service provided by the licensed broadcaster, but should apply across all channels.³⁴

In cities across the country members of People for Better TV reviewed quarterly reports which demonstrated little or no attention to the needs and interests of the diverse members of their communities. One shocking example was the quarterly report from KPIX-TV San Francisco. Close inspection of their program report on activity in the last three months of 1999 would not reveal one program squarely devoted to any of the several ballot initiatives during the November 1999 election.³⁵ Other examples: Helen Grieco, President of California NOW writes, [e]arlier this month I visited two stations, KTVU-TV and KRON-TV. While

³² See Appendix at D-4b.

³³ See Appendix at B-3, Lake Snell Perry, May 1999. 80 percent of voting Americans both favor think important People for Better TV’s proposal to require local television stations to produce programs to address local concerns.

³⁴ One means of satisfying this might be to use one of the multicast channels to air the meetings of state legislators, or city councils, or boards of education, or public utility commissions. This might be done in cooperation with cable providers who air these important civic fora on their Public, Education, and Government channels. By providing this service all Americans could have free access to the workings of their important local institutions, not just those who can afford cable.

³⁵ See Appendix at D-5b.

these stations provide a standard list of community issues, it is clear from the program reports to the FCC that this list isn't worth the paper it's printed on. Not only are their lists so generic as to be unhelpful, it's clear that they don't change from quarter to quarter (quite unlike the challenges in our very diverse community). Both of these channels also rely heavily on the local news as a means of satisfying their obligation to provide for discussion of important issues. One look at the news makes it clear that as good as it may be in providing headlines, soundbites from mainly white males are not a valid substitute for discussion from a range of perspectives.³⁶

Paul Schlaver of the Massachusetts Consumer Coalition, writes: "I simply cannot recall one decent local network offering some in-depth coverage of these complex issues. Such stories (state privacy legislation and broadband access) cry out for more time and attention ..." And Professor Ceasar McDowell of Newton, Massachusetts writes: "In reviewing the public file from two stations it is clear that stations fulfill their public interest obligations by piecing together unrelated and often non-local programming."³⁷

These comments reinforce research commissioned by the Benton Foundation. Professor Philip Napoli, of the Graduate School of Business at Fordham University, studied 142 commercial broadcast stations over a two week period in January 2000. He found that of the 47,712 broadcast hours only 156.5, or 0.3 percent were devoted to local public affairs programming. Local plus national public affairs programs reached 1.09 percent of total broadcast hours studied.³⁸ To say that there has been a decline in public affairs programming would be an understatement. Between 1973 and 1979, the average percent of public interest

³⁶ See Appendix at D-5b.

³⁷ See Appendix at D-1a, for both McDowell and Schlaver letters.

³⁸ Philip Napoli, Market Conditions and Public Affairs Programming: Implications for Digital Television Policy, Benton Foundation, March 2000. It is important to note that Professor Napoli used the same definition of public affairs as the Commission in its 1984 Revision of Programming rules. See Appendix at B-1)

programming was 4.6 percent.³⁹ Perhaps, of greater importance than data demonstrating a clear decline in public affairs service, is Professor Napoli's suggestion that

although larger markets provide a greater aggregate amount of local public affairs programming, individual stations do not respond to increasingly competitive market conditions by producing more public affairs programming. Nor, for that matter, do they respond by reducing the amount of local public affairs programming . . . the provision of local public affairs programming appears highly resistant to economic influences.⁴⁰

This suggestion undermines the core rationale of the *1984 Revision of Programming* decision that "licensees will continue to supply informational, local and non-entertainment programming in response to existing as well as future marketplace incentives."⁴¹

2. Regulatory Certainty is Needed to Ensure Local Needs are Addressed.

In various cities, People for Better TV members found cutbacks in community affairs departments justified not by the market, but by the perception of recent "de-regulation." Jason McInnes and Gordon Quinn of Kartemquin Films write that one Chicago station executive explained the cutback in public affairs programs as follows: "With the FCC de-regulation things have changed."⁴² Cher McIntyre of Consumer Action in Los Angeles writes: ". . . local Los Angeles stations (ex. CBS-KNXT-LA) have elected to eliminate Community Relations Departments altogether."⁴³ People for Better TV asserts that the assumption that market mechanisms can replace clear guidelines is unfounded. The Fowler Commission's "free market"

³⁹ Revision of Programming at 98 FCC 2d at 1080.

⁴⁰ Napoli at 13.

⁴¹ Revision of Programming, 98 FCC 2d at 1080.

⁴² See Appendix at D-3a.

⁴³ See Appendix at D-5a.

experiment with local programming has failed citizens and consumers hungry for the discussion of important local issues.

When Congress stepped in with the Children's Television Act to correct the Fowler Commission's radical elimination of children's program requirements,⁴⁴ the Hundt FCC bravely stepped up to create clear and certain guidelines. As Children Now has set forth, this regulatory certainty has improved programming for children.⁴⁵ Regulatory certainty needs to be established regarding local public affairs programs. If localism remains the bedrock of the public interest standard, setting a clear goal as to the amount of time a station will devote to address local issues is obviously needed to achieve that standard.⁴⁶

3. Local Public Affairs Programs Should Address the Needs of All Segments of the Community of License.

While *UCC v. FCC*, stands, in part, for the proposition that a federal licensee is obligated to operate in the interest of the entire community, we understand that serving all segments of the community is a large task. Digital television service provides local broadcasters unique opportunities to expand their programming service. A much wider variety of local needs can now be met. And as we suggested in our initial Petition for Inquiry, the local needs of diverse communities are not well served by national programs. Network programming has a difficult enough time depicting the true diversity of New York City or Los Angeles,⁴⁷ how could it

⁴⁴ See Newton Minow, *Abandoned in the Wasteland*, pp. 51-57 (Hill and Wang) (1995).

⁴⁵ See Appendix at C-1, pp. 21-29.

⁴⁶ In addition to providing local programming, it is important for the station to provide that program during the regular broadcast day, rather than at 4:00am. If television is to contribute to community discourse the community should be awake during the contribution.

⁴⁷ See Comments of LULAC, Appendix at C-3.

possibly be expected to address the diverse local interests in Houston, Texas or Columbia, South Carolina?

Therefore, in addition to requiring a clear numerical standard for public affairs programs, the Commission should require that these programs address the needs and interests of all segments of the community served by the broadcast licensee, regardless of the ethnicity or wealth of those segments. Sandy Close and Emil Guillermo of New California Media note:

There are numerous examples of how local broadcasters give short shrift to the concerns of the multi-racial, multi-ethnic communities that now comprise the San Francisco Bay Area. . . Candidates' debates broadcast over the network local affiliates are routinely conducted by representatives from mainstream TV and print media -- invariably people who are out of touch with the concerns of major communities of color. Yet the nightly news anchors of Spanish, Mandarin, Cantonese and Korean language television stations in the Bay Area command large audiences and are exactly the people who should be fielding questions to candidates.⁴⁸

Again, these comments are echoed across the country, even in areas thought not to be as diverse as the San Francisco Bay Area.⁴⁹

Second, all of the broadcast *area* deserves service. Florence Rice of the Harlem Consumer Education Council, writes: "It is my personal opinion that Harlem has been extremely neglected by local television broadcasters." Linda Cookingham, also notes: "My husband and I tune in the NYC TV stations for the daily news and are distressed that our 'local' news is rarely broadcast. In fact, the stations are hard pressed to include the Hudson Valley in their weather reports."⁵⁰ Surely the public interest does not mean that stations need only serve those parts of

⁴⁸ See Appendix at D-5b.

⁴⁹ See Appendix at D-1 and D-2 especially.

⁵⁰ See Appendix at D-1b for both Cookingham and Rice letters.

the community advertisers are especially interested in.

4. Local Television News Should Not Be Considered a Substitute for Local Public Affairs Programming.

The apparent low level of attention to important local issues through public affairs programming is not increased by the local news programs. While current news programming may be more entertaining than ever, it clearly does not satisfy the goal of local discussion about important local issues. A Kaiser Family Foundation/Center for Media and Public Affairs Report shows that crime and accidents make up roughly 30 percent of local newscasts, while reporting on local city or state government was only two (2) percent combined. Sports and entertainment combined for ten percent.⁵¹ These findings are in line with the comments of Professor Xandra Kayden, Chapter President of the League of Women Voters in Los Angeles; “If 70 percent of Americans get their news from television — and local television is devoted to personal tragedies, natural disasters and consumer news — it is not difficult to explain the decline in affiliation with our political system.” Professor Kayden cites as evidence the LWV study of local news, “Media Watch.” Alicia Maldonado of the Mexican American Legal Defense and Education Fund writes:

coverage of local primary races, controversy over the building and construction of schools in Los Angeles, and meetings of local government were missing, yet these issues directly affect the daily lives of television viewers. I was frankly surprised that not one story covered the activities of the city council or board of supervisors.⁵²

These reactions reflect local news coverage in every region of the country. Digital broadcasters should not be allowed to skirt their obligation to provide information and discussion of local

⁵¹ Assessing Local Television News Coverage of Health Issues, Kaiser Family Foundation/Center for Media and Public Affairs Report, 1998.

⁵² See Appendix at D-5a for both the Kayden and Maldonado letters.

issues by pointing to their news/entertainment programs.

B. Digital Broadcasters Should Provide One Public Service Announcement for Every Four Commercials, With at Least Equal Emphasis Placed on Independent and Locally Produced PSAs Addressing a Community's Local Needs.

Public service announcements are an important means of providing reminders about local public events and simple messages about non-commercial activity in the community. These announcements can improve, and make civil our local discussions. Unfortunately, there seems to have been a decline in local and non-promotional public service announcements. Gail Parson, a Consumer Associate with Illinois Public Interest Research Group, writes: "Public service announcements are a way for stations to give back to the community in which they broadcast. If public service announcements are aired at all, they are aired when most viewers are asleep."⁵³

According to Susan Grover of the Prevention Coalition of Southeast, Michigan (PREVCO)

Over the past years we have seen a dramatic decrease in the actual amount of airtime that is devoted to PSA's. In the past, we were able to consecutively air :60 spots. Currently, we are confined to :30 or :15 spots. The seriousness of these community health issues has not decreased. Unfortunately, the available airtime has decreased by up to 50%.⁵⁴

Therefore, we recommend that digital broadcasters be required to provide one public service announcement for every four commercials, with at least equal emphasis placed on independent and locally produced PSAs addressing a community's local needs. PSAs should run in all day parts including in primetime and at other times of peak viewing.

As the Commission understands all too well, the U.S. regulation of broadcasting is based

⁵³ See Appendix at D-3a.

⁵⁴ See Appendix at D-3b.

upon offering private citizens free and exclusive license to use a locally defined portion of the electromagnetic spectrum, in exchange for their using this public property on behalf of the local public. This obligation does not mean donations to local charities, it means local television programs serving the needs of the entire community. This deal, a free license for local public service, is a fiction and a fraud, just one more example of corporate welfare, if the Commission shrinks from the obligation to set certain and enforceable guidelines for public discussion.

C. The Commission Should Require Broadcasters to Seek Out the Needs and Interests of All Segments of the Community of License.

As stated above, the FCC determined in the mid-1980's that the obligations of a public licensee to serve the public good could be easily substituted by the dictates of the commercial marketplace. According to that FCC, requiring broadcasters to determine the issues of importance to all segments of its community of license proved to be burdensome, inconvenient to both business and government, and unnecessary given marketplace pressures to discover consumer needs. We will address the last platitude first, and argue second that new technologies make ascertainment duties no longer (putting aside the question of whether they ever really were) unduly burdensome or inconvenient.

1. The Market Does Not Guarantee that All Segments of the Community Will Be Served.

In arguing against the ascertainment requirement, Commissioner Furchtgott-Roth writes: "Broadcasters have every reason to serve their local communities and, if they do not meet that

challenge, they will go out of business.”⁵⁵ This old reasoning is not only bad logic it ignores reality. Ascertainment requirements were put in place in the late 1960's and early 1970's because it was demonstrated that certain broadcasters ignored the needs of certain segments of their community, particularly ethnic and racial minorities. To paraphrase the *Kerner Commission Report*, for four decades the market failed to ensure that all broadcast licensees communicated to white America what it meant to be other than white. The broadcast market did not, does not, and will not dictate that all segments of the community of license be “served.” The broadcast market dictates meeting the short-term desires of its potential paying customers. Those customers, of course, are advertisers. Advertisers, and the broadcasters who serve them, may determine, as they have in the past (rightly or wrongly), that ignoring certain minority groups, or women, or the elderly, or the disabled, may be the most efficient market action.⁵⁶ Thus, broadcasters certainly need not go out of business if they ignore the needs of certain groups. Indeed, broadcasters may see ignoring those needs as protecting their ability to best serve both their core customers and the audience that those advertisers seek. However efficient it may be to ignore the needs of certain groups, it is certainly not in the best interests of either the community segment or the community at large. Community needs and interests cannot intelligently be confused with short term market dictates.⁵⁷

The Commissioner’s logic fails to understand the broadcast market, and it fails to observe

⁵⁵ See NOI, Separate Statement of Commissioner Harold Furchtgott-Roth.

⁵⁶ See generally, Kofi Ofori, When Being One Is Not Enough, Civil Rights Forum on Communications Policy, 1999.

⁵⁷ Andrew Graham, Broadcasting Policy in the Digital Age. Evidence to the Advisory Committee on Public Interest Obligations of Digital Television Broadcasters (Submitted to the Public Interest Advisory Committee), July 1998, at 10-15.

the facts. Not only do the national networks regularly decide that it is in their market interest to ignore certain communities, broadcasters across the country ignore a variety of groups in their community of license. Allen Perez, of Cambridge, Massachusetts writes: “Most of the major local stations do not even have a community liaison . . . An evening of watching my local broadcast station reveals . . . Not a single mention of Latino issues.”⁵⁸ Minority groups are not the only ones ill-served by market dictates. New York NOW member Sonia Ossorio writes, NOW/NYC “won a court case against the New York State division of human rights to force them to set up policies to improve response time and lower the backlog of employment discrimination suits filed with the state. [Not] CBS, nor Fox, nor any other television station responded to press announcements of this legal victory won by NOW.”⁵⁹ The public good and the results of unregulated markets (so-called) are not one and the same.

2. New Technologies Can Relieve the Administrative Burden of Discovering Community Needs.

We are left with the rather weak argument that broadcasters consider community consultations too much of a burden. Now, new technologies have been developed which might help relieve the supposedly burdensome nature of determining the public interest.

On-line discussions, perhaps once a quarter, with a diverse selection of community leaders can be conducted by the station. These discussions can be stored automatically and kept available on-line for the general public to read. Programs are already available which facilitate these sort of discussions. These programs can rank ideas listed by participants and calculate

⁵⁸ See Appendix at D-1a.

⁵⁹ See Appendix at D-1b.

percentages. A good example on how local television stations might consult with community leaders on issues important to a variety of segments of the community is the Benton Foundation's Debate America project. This project "maps community issues, provides context, and facilitates discussion," through an Internet Web-based program. Discussion leaders can select participants or allow for a wide field of discussants, and allow for a wide range of discussion styles. Imagine a community relations director at a local television station with this tool to consult with a wide range of community leaders from time to time on important local issues.⁶⁰ No more messy paperwork, or burdensome aggregation of comments. We propose requiring the broadcasters to conduct community consultation via Internet technologies.⁶¹

D. Digital Broadcasters Should Be Required to Disclose their Public Interest Programming and Activities Quarterly.

The best guarantor that broadcasters attend to community needs is community oversight. People for Better TV applauds the Commission's insistence upon requiring the requirement that broadcasters make their quarterly reports and other important documents available to the public. These requirements should be extended to digital community service.

We must report, however, a decidedly mixed reception from our coalition who attempted to review public files. Rick Loza of t

⁶⁰ See Debate America (visited Mar. 20, 2000) <<http://www.debte.com>>. Lotus has developed a wide range of software programs which allow for information. (visited Mar. 20, 2000) <<http://www.lotus.com/home.nsf/welcome/products>>.

⁶¹ We recognize that the Internet is not accessible to everyone. However, we think that an Internet-based solution is a reasonable compromise that minimizes broadcasters' burdens while providing a means for community interaction.

DELETE

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International Union, Local 46, writes that he and a colleague went to inspect the public files at a Chicago station, and were told that they “could not see anyone without an appointment.” After asking to call someone to set up an appointment, he was refused both a telephone and a telephone number.⁶² Dorothy Garrick of Columbia, South Carolina writes:

On March 7, 2000 I visited one of my local broadcasting station, SCETV in Columbia, South Carolina to inspect the public files and was not allowed to see the files. These are some of the reasons I was given by Ms. Kathy Gardner-Jones, Vice President- SCETV as to why I could not inspect the public files: I needed to file a Freedom of Information request, unless I explained exactly what I was looking for in the public files. (She assumed I did not know what Freedom of Information meant, so she proceeded to explain it to me and how to file). I needed to tell her exactly what I was looking for in the public files. I could not see the employees personnel files. Public files are not in one (1) location. I needed to go to different areas in the building to inspect the public files. Staff is very busy and don't have a lot of time. Staff needed to know exactly how much time I would need to inspect the public files. A staff member had death in his family. I needed to make an appointment to see the public files.⁶³

Catherine Bell of the Boston Chapter of NOW writes, “we were told we would not be able to view the public files that day.”⁶⁴ Shirley Middleton of New York writes, “I went to NBC and ABC with my daughter to gain entry to the public records and I cannot believe the run around they tried to give me.”⁶⁵

While we continue to think it important for stations to keep files for public review on site, we propose that digital broadcasters also be required to disclose information on their web sites. This policy would be a minor burden on the stations compared to the incredible burden on those

⁶² See Appendix at D-3a.

⁶³ See Appendix at D-2b.

⁶⁴ See Appendix at D-1a.

⁶⁵ See Appendix at D-1b.

members of the public who travel several miles only to be turned away or made to feel uncomfortable. As Mary Ellen Guest, of Working In The Schools from Chicago says,

It is time-consuming and expensive (downtown parking is \$14 per hour) to visit local broadcast affiliates and review their public files. We encourage the FCC to require stations to post reports about their children's programming, public service announcements, and public affairs programming on the Internet.⁶⁶

This recommendation is a small step and it should be implemented immediately. Research by the National Association of Broadcasters in 1998 revealed that approximately two-thirds of television stations in the top 100 markets had web sites.⁶⁷

The Commission asks what information should be included in the public files of digital broadcasters?⁶⁸ In addition to the current requirements, broadcasters should put in their files and their web sites all records of community consultations, and the means by which the station makes its programs available to the disabled. One persistent complaint from People for Better TV members is that it was difficult to gauge what public service announcements were broadcast. We concur with the recommendation of Benjamin Jones, of the National Council on Alcoholism and Drug Dependence in Detroit, who suggests that digital broadcasters "list in their public file the date, time and type of public service announcements they air."⁶⁹

To facilitate broadcaster compliance and public review, the Commission should create a public service form that is both easy to complete and easy to read. Standard, computerized forms

⁶⁶ See Appendix at D-3a.

⁶⁷ See Brian Savoie, Summary of Web Activity of Television Stations (visited Jan. 26, 2000) <<http://www.nab.org/Research/webbriefs/WebActiv.html>>

⁶⁸ NOI at ¶16.

⁶⁹ See Appendix D-3b.

listing employment, public service programs, etc, should be administratively simple, much simpler than the standard commercial logs station administrative support complete every day. As indicated above, several members of People for Better TV reviewed public files at stations across the country and the most consistent finding is the lack of consistency and uniformity about what is in the files, even within the same community. Chicago Commissioner Shiela Lyne attached a summary of visits to television stations which notes:

At three out of five stations, all mail was placed together, no matter what the topic was. At two stations, there were specific "violence files" and one station, WBN which was visited first, kept violence files separate, stating they were mandated to do so by the FCC. No other station had known about that mandate.

Professor Rose Economou of Columbia College in Chicago assigned her class to monitor local stations, write a letter to each station about what they saw, and visit the station to inspect the public file to see, among other things, if the letters they wrote were placed in the file. Only one letter was found at one Chicago station - WPWR-TV, none of the other stations had the student letters on file. Several letters from her class are attached. As Professor Economou reports: "the state of the 'public file' is in jeopardy."⁷⁰

People for Better TV recommends that public files be kept current; letters and e-mail received should be placed in the file no later than five (5) days after receipt. Members of the public may be interested to know whether there is a shared sentiment regarding a recent community issue or action by the station. Allowing a station to wait until an issue or station action has perhaps become moot (or until after an FCC inspection) before a letter is placed in the

⁷⁰ See Appendix at D-3a for both Commissioner Lyne's letter and the letters from Professor Economou and her class.

file does not further the core goal of the public file obligation.

Digital television broadcasters should be required to respond to community needs with local programming services. In order to provide responsive programs, broadcasters should be required to consult with all the segments of the community they are licensed to serve. And, at a minimum, the public files should be current and the public should have much easier access to the information the broadcasters are required to keep. If ascertainment and public reporting were burdensome fifteen years ago, new information sharing technologies have made these requirements far less burdensome. Unless this Commission is prepared to declare the public interest standard a promise which cannot be kept, People for Better TV asserts that the basic triangle of this standard be preserved in the digital age: ascertaining community needs, providing programs which address those needs, and reporting to the community what service is being provided should be considered minimum public interest requirements.

IV. Enhancing Access to the Media

A. The Commission Should Ensure that Digital Broadcasting is Accessible to All Americans.

The Commission should adopt regulations for closed captioning and video description that ensure that all disabled individuals have access to digital television. People for Better TV has attached a letter signed by 23 groups representing deaf and hard of hearing people which sets forth our position that, “broadcasters who are now entering the digital age should be required to take advantage of increased bandwidth as well as other emerging features of digital technologies

that can serve to enhance access to digital TV” for all Americans.⁷¹

On behalf of these 23 groups and other viewers with disabilities, People for Better TV offers several specific proposals. We maintain that the Commission should adopt captioning rules that: 1) enable viewers to control caption styles and permit decoding and processing of different captioning services; 2) require captioning of PSAs, public affairs programming and political discourse; and 3) require real-time captioning of newscasts, and televised information about disasters. These requirements could be phased in over the first four years of a station’s digital broadcast, but should be completed by 2006. In addition, the Commission should adopt rules governing video description that: 1) require broadcasters to allocate sufficient audio bandwidth for the transmission and delivery of video description; 2) require that all digital television receivers support simultaneous multi-channel audio-decoding capability so that descriptions can be delivered separately from a program’s main audio; 3) establish a schedule for digital broadcasters to begin providing video description for their programming.

Implementing these provisions would fulfill Congressional mandates, and would not unduly burden broadcasters. In Section 305 of the 1996 Act, Congress stated that television and cable programming should be accessible through closed captioning. 47 U.S.C. § 613. Similarly, the Television Decoder Circuitry Act requires that new television technologies be capable of transmitting closed captions.⁷² The expense for digital broadcasters of complying with these provisions should be minimal. Captioning costs are expected to drop as demand increases and captioning technology improves. Furthermore, digital technology offers multiple audio channels

⁷¹ See Appendix at C-4.

⁷² See Pub. L. 101-431, 104 Stat. 960 (1990) (codified at 47 U.S.C. §303).

with significantly greater bandwidth that can easily and inexpensively accommodate video descriptions. Thus, the Commission must adopt each of these recommendations to ensure that the benefits of digital television are available to all.

The Commission should also ensure that disabled individuals have access to ancillary and supplementary services. Such a policy would be consistent with Section 255 of the Telecommunications Act of 1996 which requires providers of telecommunication services to make these services “accessible to and usable by individuals with disabilities, if readily achievable.”⁷³ The FCC should work with other regulatory agencies and set manufacturers so “that modifications in audio channels, decoders, and other technical areas [are] built to ensure the most efficient, inexpensive and innovative capabilities for disability access.”⁷⁴ Moreover, the Commission should not allow broadcasters to implement ancillary and supplementary services in a way that would impinge on bandwidth set aside for captioning or video descriptions. Individuals with disabilities should have every opportunity to enjoy the benefits of the development of digital television.

People for Better TV has found that individual viewers with disabilities are concerned about their ability to access digital television services. As Julia Zozaya, a blind and hearing impaired woman from Phoenix, writes in her attached letter, only the public broadcasting station in her area offers video description. She writes, “[t]his means that I cannot enjoy the local news, weather, or any of the community or public affairs programming which are offered by the other stations.” Ms. Zozaya also writes that she “wants to be sure that the [digital television]

⁷³ 47 U.S.C. § 255(c).

⁷⁴ See Appendix C-4, NAD Letter at p. 6.

technology, including both software and hardware will be standardized and accessible to all.”⁷⁵ Only by requiring digital broadcasters to provide equal access to digital television, including public affairs, political programming and PSAs, will the Commission be certain that all Americans can participate equally in the democratic process.

B. Diversity

1. DTV Broadcasters Should Be Required to Comply with the FCC’s EEO Rules.

People for Better TV urges the Commission, largely through its aforementioned recommendations, to make certain that digital broadcasters use this new medium to serve all members of their communities of license. Moreover, we applaud the Commission for moving forward with the establishment of sensible Equal Employment Opportunity rules, and are certain that these new rules will fully apply to digital broadcasters. In addition, we encourage the Commission to require broadcasters to announce all the station’s job opportunities, and report all diversity efforts, whether programming or employment, in the station’s public files and on its web site.

2. Under the People for Better TV Flexibility Approach Multicasting Broadcasters Could Devote Channel Space to Underserved Audiences.

The Commission seeks “comment on innovative ways unique to DTV that the Commission could use to encourage diversity in the digital era.”⁷⁶ People for Better TV recommends that, in consultation with their local communities, digital broadcasters who multiplex could be provided incentives, such as an abeyance of other public interest obligations,

⁷⁵ See Appendix at D-4b.

⁷⁶ NOI at ¶33.

to devote channel space to women, minorities, and other under served groups. These groups could use this channel space for datacasting, or commercial or non-commercial programming. As the League of United Latin American Citizens suggests: “Digital television broadcasters have the ability to send much more information, and more channels than standard analog broadcasts. Why not use that ability to provide more service to a more diverse audience? Why not use that ability to put on programs about the local needs and interests of minority communities at a time when those programs can be seen?”⁷⁷

3. Disaster Relief Information Should be Available in Multiple Languages.

People for Better TV also supports LULAC’s suggestion that all broadcasters be required to:

make emergency and disaster related information available in a variety of languages appropriate to the communities they are licensed to serve. While English may not be the dominant language, for many immigrants, English-language television is the only source of news, weather, and emergency information. We believe that broadcasters could reasonably be required to scroll emergency information across the bottom of television screens which would help to alert non-English speakers of life-saving instructions.⁷⁸

These efforts would go a long way toward ensuring that all Americans benefit from the new digital television service.

⁷⁷ See Appendix at C-3.

⁷⁸ Id.

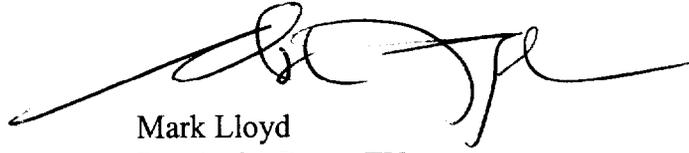
V. Conclusion

Most Americans do not know that their local broadcasters are given free licenses by the federal government to operate in the public interest of the local communities. The letters attached to this Comment attest to the general anger expressed by millions of Americans about the lack or quality of coverage of important local issues, or programs for children, or service to the disabled. People for Better TV has encouraged citizens across the country to read the Commission's documents on the relationship between broadcasters and the public. Citizens have visited stations and monitored local programming. And they have submitted comments about what they think it means for local broadcasters to operate in the public interest. We trust that this Commission will not be blind to the concerns expressed in those petitions, and will work to restore the public interest standard so the public might recognize that it is in operation.

There are many important philosophical arguments about the scarcity rationale, or the role of regulation in a period of technological transition, or the degree to which regulators should rely upon the marketplace. However, Congress tied the free licensing of spectrum to broadcasters on the condition that they operate in the public interest. This Commission is obligated to say what that means, and set clear public interest guidelines for digital broadcasters.

We commend the Commission for opening this Inquiry, and hope that it will stay open to resolve those remaining difficult technical issues surrounding this evolving technology. We also repeat the request we set out in June 1999: the time for a rule making proceeding on the public interest obligations of digital broadcasters is overdue. Federal licensees obligated to operate in the public interest should understand their obligations, so should the public.

Respectfully Submitted,

A handwritten signature in black ink, appearing to read 'Mark Lloyd', with a long horizontal line extending to the left and a vertical line extending downwards to the right.

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March 27, 2000

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People for Better TV

Members
3/30/2000

Steering Group

Children Now
Civil Rights Forum on Communications Policy
Communications Workers of America
Consumer Federation of America
League of United Latin American Citizens
National Association of the Deaf
National Organization for Women
National Urban League
Project on Media Ownership
U.S. Catholic Conference

Other Coalition Members

American Academy of Child and Adolescent Psychiatry
American Academy of Pediatrics
American Documentary
American Foundation for the Blind
American Society for Deaf Children
A. Philip Randolph Institute
Appalshop
Arizona Consumers' Council
Association of Independent Video and Filmmakers
Benton Foundation
Branch County -NOW
Bridge the Gap - Family Day Care Network
Carolina Peace Resource Center
Center for Information, Technology, and Society
Chicago Access Corporation
Chicago Media Watch
Childserv
Christian Communication Council of Metropolitan Detroit Churches
Chinese for Affirmative Action
Citizens for Independent Public Broadcasting
Citizens' Media Corps
Cobb County -NOW
Columbia Consumer Education Council

Community Technology Center's Network
Conference of Educational Administrators of Schools and Programs for the Deaf
Consumer Action
Cultural Environment Movement
Deaf Entertainment Foundation
Fairness and Accuracy in Reporting
Globalvision
Global Ministries United Methodist Church
Green Party of Metro Detroit
Interfaith Broadcasting Commission
Harlem Consumer Education Council, Inc.
Houston-Media Source
Illinois Campaign for Political Reform
Illinois Public Interest Research Group
Internews
Internews Interactive
Kartemquin Films Ltd.
Labor Council for Latin American Advancement
Latino Public Broadcasting
League of Women Voters - Los Angeles
Libraries for the Future
Loka Institute
LULAC-Houston District
MADD-Wayne County Michigan Chapter
Massachusetts Consumer's Coalition
Media Education Foundation
Mediascope
Metropolitan Christian Council: Detroit-Windsor
Mexican American Legal Defense and Educational Fund (MALDEF)
Michigan Association of Retired School Personnel
Michigan Consumer Federation
Michigan Institute for Nonviolence Education
MultiCultural Collaborative
NAACP
National Institute on Media and the Family
National Association of the Deaf
National Association of Latino Elected Officials (NALEO)
National Capital Area Trade Union Retirees
National Council of Churches
National Council on Alcoholism and Drug Dependence, Greater Detroit Area
National Hook-Up of Black Women, Inc
National Indian Telecommunications Institute
National Puerto Rican Coalition
NOW-Boston
NOW-California Action Center

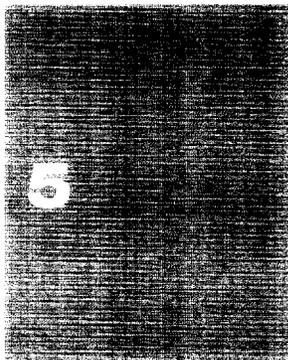
NOW - Montgomery County
NOW-New York City
NOW-Western Wayne County Chapter
NOW-University of Michigan Campus Group
New California Media
Nuestra Palabra: Latino Writers Having Their Say
OMB Watch
Pacific News Service
Pontiac Area Urban League
Prevention Coalition of Southeast Michigan (PREVCO)
Rocky Mountain Media Watch
Self Help for Hard of Hearing People
Service Employees International Union - Local 46
Southern Rural Development Initiative
Talenton Bilingue de Houston
Telecommunications for the Deaf, Inc.
Women's Institute for Freedom of the Press
Working In The Schools
WWNews
Youth Connection

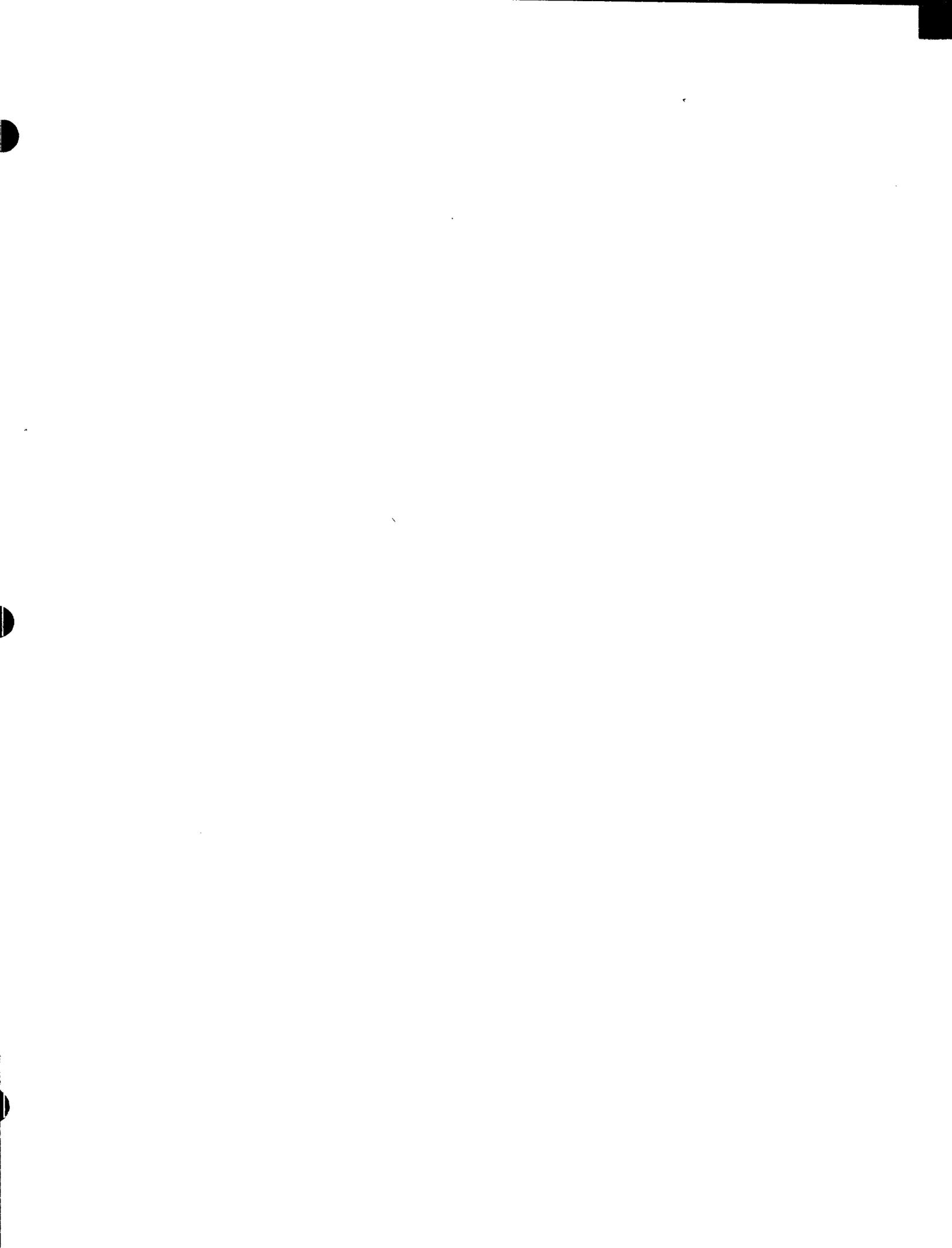
Tab B

Market Conditions and
Public Affairs Programming:
Implications for Digital Television Policy,
Philip Napoli, Ph.D.,
Benton Foundation, March 2000

A Methodological Evaluation of
the NAB report entitled:
"A National Report on the Broadcast
Industry's Community Service",
Project on Media Ownership, January 2000

Lake Snell Perry & Associates,
Findings from a National Survey,
People for Better TV &
Project on Media Ownership,
May 1999





Market Conditions and Public Affairs Programming: Implications for Digital Television Policy

A report prepared for



By

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Executive Summary

In its December 20th, 1999 Notice of Inquiry in the Matter of Public Interest Obligations of Broadcast Licensees, the Federal Communications Commission asked, “Are there sufficient marketplace incentives to ensure the provision of programming responsive to community needs, obviating the need for additional requirements?” (Federal Communications Commission, 1999, p. 29). The Commission asked this question within the context of inquiring whether specific public interest programming obligations should be imposed upon digital television broadcasters.

In response to this question, this study investigated whether marketplace conditions affect the provision of public affairs programming by analog television broadcasters. This examination of the relationship between market conditions and public affairs programming in the analog television environment can provide insights into broadcasters’ programming practices that can then be applied to the issue of public interest programming obligations in the digital realm. The central research question is: Does competition encourage the airing of public affairs programming?

This study first compared levels of public affairs programming across a random sample of 24 markets. Next, this study examined a random sample of 112 commercial broadcast stations in order to determine whether, when accounting for station characteristics and market size and demographics, competitive conditions affect the quantity of public affairs programming provided. In order to conduct these analyses, the broadcast schedules for each station included in the station and/or market samples were analyzed for the two-week period beginning on January 17th and concluding on January 30th, 2000. This study analyzed local public affairs programming alone, as well as local and non-local public affairs programming combined.

The primary results of these analyses were as follows:

- Within the 24 markets studied, there was an average of 6.52 hours of local public affairs programming per market during the two-week time period, and an average of 1.1 hours per commercial station.
- 0.3 percent of the total commercial broadcast time within these markets was devoted to local public affairs programming.
- When local and non-local public affairs programming were analyzed together, the average hours of public affairs programming per market increased to 21.2 (3.59 hours per station) during the two-week time period.
- 1.06 percent of the total commercial broadcast time within the studied markets was devoted to local and non-local public affairs programming.
- Competitive conditions, market demographics, and station characteristics had no significant effect on the quantity of local public affairs programming provided by individual broadcast stations.
- Competitive conditions were significantly related to the provision of local and non-local public affairs programming combined. Specifically, there was a significant positive relationship between the number of commercial broadcast stations in a market and the amount of public affairs programming that a station provides. The moderate level of explained variation (less than 25 percent), however, suggests that public affairs programming decisions are quite resistant to market conditions.

Overall, the results of this study suggest that broadcasters generally devote a very small fraction of their broadcast time to public affairs programming, and that marketplace incentives do not effectively motivate the provision of such programming, particularly in terms of locally produced public affairs programming.

Introduction

In its December 20th, 1999 Notice of Inquiry in the Matter of Public Interest Obligations of Broadcast Licensees, the Federal Communications Commission asked, “Are there sufficient marketplace incentives to ensure the provision of programming responsive to community needs, obviating the need for additional requirements?” (Federal Communications Commission, 1999, p. 29). The Commission asked this question within the context of inquiring whether specific public interest programming obligations should be imposed upon digital television broadcasters.

One traditionally prominent aspect of broadcasters’ public interest obligations has been the provision of public affairs programming, particularly public affairs programming produced locally and/or addressing local interests and concerns (Federal Communications Commission, 1999). The Federal Communications Commission has defined public affairs programming as “programs dealing with local, state, regional, national or international issues or problems, documentaries, mini-documentaries, panels, roundtables and vignettes, and extended coverage (whether live or recorded) of public events or proceedings, such as local council meetings, congressional hearings and the like” (Federal Communications Commission, 1984, p. 172). The Commission traditionally has differentiated public affairs programs from news programs, which the Commission has defined as “reports dealing with current local, national and international events, including weather and stock market reports, and commentary, analysis, or sports news when they are an integral part of a news program” (Federal Communications Commission, 1984, pp. 171-172).

This study investigates whether marketplace conditions affect the provision of public affairs programming by analog television broadcasters. This examination of the relationship

between market conditions and public affairs programming in the analog television environment can provide insights into television broadcasters' programming practices that can then be applied to the issue of public interest programming obligations in the digital realm. The central research question is: Does competition encourage the airing of public affairs programming? If the provision of public affairs programming is responsive to market conditions, then government efforts to encourage its production may be unnecessary. If, however, the provision of public affairs programming is not responsive to market conditions, then government action may be necessary to ensure the availability of such programming.

Methodology

This study is divided into two sections. The first section presents a descriptive analysis of public affairs programming provided by commercial television stations in 24 randomly selected Nielsen television markets. These 24 markets represent approximately ten percent of the 211 television markets in the United States. These markets are analyzed in terms of the overall levels of public affairs programming available across markets of various sizes. The second section examines the programming patterns of individual broadcast stations. This section involves a quantitative analysis of the determinants of the quantity of public affairs programming provided by a random sample of 112 commercial television stations.¹ These 112 stations represent approximately ten percent of the roughly 1,200 commercial television stations licensed in the United States. This analysis examines whether individual station characteristics, market demographic factors, and competitive conditions affect the quantity of public affairs programming provided.

In order to conduct these analyses, the broadcast schedules for each station included in the

station and/or market samples were analyzed for the two-week period beginning on January 17th and concluding on January 30th, 2000. This two-week period appears reasonably representative of a typical two-week broadcast period. This period represents the heart of network broadcasting “season” (which runs roughly from September through May). In addition, none of the 14 days studied falls into any of the four one-month “sweeps” periods, in which programming strategies and practices typically deviate from the norm in an effort to boost ratings. During sweeps periods, it is more likely that public affairs programming will be preempted (Moonves, 1998). Given that sweeps periods comprise a full third of the broadcast year and that no sweeps days are included in the time period studied, however, it is possible that this data set overestimates the amount of public affairs programming that would be found if 14 days were randomly sampled throughout the year.²

A second possible bias to this data set is the selected time period’s proximity to presidential primaries. This factor also may artificially inflate the quantity of public affairs programming presented. An examination of the data gathered, however, revealed very few programs devoted specifically to the presidential campaign. Moreover, only one sampled market (Boston) was in close proximity to either of the states (Iowa and New Hampshire) that held a caucus or primary election close to the studied time period. In sum, the time period studied is likely to be very representative of typical commercial broadcaster behavior.

For the 24-market analysis, a list of all commercial television stations located in each of the 24 randomly sampled markets was compiled using the third edition of the 1999 Investing in Television Market Report, published four times a year by BIA Research. The Investing in Television Market Report (1999) provides the city/town of license for each station designated as

falling within the Nielsen Designated Market Area. The appropriate zip codes were then obtained through the U.S. Postal Service's web site (www.usps.gov).

The next step required obtaining program schedules for each of the commercial broadcast stations. This was accomplished using ClickTV (www.clicktv.com), a national television schedule database provided by TV Data, one of the nation's leading providers of television program schedule information (see www.tvdata.com). ClickTV provides zip code-based searching of broadcast, cable, and satellite television schedules. The ClickTV database covers 24 hours per day and encompasses programs as short as 15 minutes in length. The relevant station zip codes were entered in order to produce the corresponding program schedules for the two-week time period.³

These program schedules were then keyword-searched, using the term "public affairs." "Public affairs" is one of the program type designations used by ClickTV to identify programs. It is important to note that the "public affairs" program type designation is not only used independently, but also in conjunction with other program type designations (e.g., "public affairs/legal" or "public affairs/community"). Thus, it is unlikely that a keyword search using the "public affairs" terminology failed to produce scheduled public affairs programs. Indeed, preliminary exploration of the ClickTV database produced no instances in which related program categories, such as "community" or "legal" were used without being linked with the "public affairs" category. In addition, exploration of the database produced no instances in which programs clearly representative of the "public affairs" category were classified under a different program type. There were, however, instances in which programs that did not meet the FCC's criteria for "public affairs" programming (described above) were classified as such (primarily

religious and agricultural programs). These programs were excluded from the data set.

The ClickTV listings contained the following information about the programs: (a) time of broadcast; (b) station call letters/channel; (c) program length (in minutes); and (d) brief descriptive information. In those instances in which a program could not easily be confirmed by its title and/or description as a public affairs program, the station was contacted via telephone or e-mail, or the station's web site was consulted, in order to make a final determination as to whether the program was appropriately classified as a public affairs program. In each of these cases, deference was given to the programmers' own interpretations of whether or not the program was appropriately categorized as a public affairs program.

Although locally produced public affairs programs have often been the focus of communications policymakers, this study also approached public affairs programs more broadly, given that, in many instances, local programmers import public affairs programming from outside their market in an effort to appeal to particular audience segments within their community (e.g., importing foreign-language public affairs programs, or senior citizen-focused public affairs programs). As policymakers have noted on occasion, localism need not be expressed purely in terms of geography. Localism can also be expressed in terms of shared cultural values or interests (see Napoli, in press, Chapter Nine). Moreover, many public affairs programs are national network programs (e.g., "Meet the Press," "Nightline") or are nationally syndicated programs (e.g., "America's Black Forum"). Consequently, the analyses that follow examine both locally produced public affairs programming and public affairs programming in its entirety (local and non-local public affairs programming combined). The television stations or their web sites were consulted when necessary to clarify any instances in which it was unclear from a program's

description as to whether or not the program was a local public affairs program (i.e., produced within the market area).

Market Analysis

The sampled markets ranged in their rankings from number two (Los Angeles) to number 200 (Bend, Oregon). They ranged in size from 40,000 television households to over five million television households. These markets contained a total of 142 commercial television stations. The individual markets contained from one to 19 commercial television stations. These markets had an average household income of over 42 thousand dollars and an average cable penetration of approximately 68 percent. Both of these averages correspond very closely to national average figures, which provides a strong indication of the representativeness of the sample.

Descriptive information for the sampled markets is provided in Table One. As the table indicates, a total of 156.49 hours of local public affairs programming was presented during the two-week period. This averaged out to 6.52 hours per market and 1.1 hours per commercial station (156.5 hours/142 stations). These 156.5 hours represent 0.3 percent of the total broadcast hours studied (14 days x 24 hours x 142 stations). This percentage corresponds closely to previous research that focused on local public affairs programming (Benton Foundation, 1998). The amount of all forms of public affairs programming (local and non-local) totaled 509 hours, for an average of 21.2 hours per market and 3.59 hours per station. These 509 hours represent 1.06 percent of the total broadcast hours studied.

Table Two provides a market-by-market breakdown of public affairs programming hours. This table lists the hours of local and total (local + non-local) public affairs programming in each of the markets studied (columns 2 and 5). As the table indicates, Los Angeles contained the

greatest amount of public affairs programming (in terms of both local and total public affairs programming). A number of the smaller markets (e.g., Topeka, KS, Watertown, NY, Marquette, MI) contained no local public affairs programming. Columns 3 and 6 represent the percentage of the total available broadcast hours (expressed as 24 hrs. x 14 days x N stations in the market) accounted for by each of these program categories. These numbers provide an indication of the overall amount of broadcast time devoted to public affairs programming. As the table indicates, the Joplin, MO/Pittsburg, KS market contained the highest percentage of total broadcast time (1.69 percent) devoted to local public affairs. The Joplin/Pittsburg measure is significantly higher than the norm because the Joplin/Pittsburg market contains a relatively small number of commercial television stations (three), but one or more of these stations devotes a larger than average amount of time to local public affairs programming.

Finally, in columns 4 and 7 the hours of local and total public affairs programming presented in each market are divided by the number of commercial television stations in the market in order illustrate the average hours of public affairs programming per station in each market. Markets with the highest per station averages for local public affairs programming are Joplin/Pittsburg (5.67 hrs./station), Los Angeles, (2.48 hrs./station), and Flint, MI (2.00 hrs./station). The lowest-ranking markets in this category include Topeka, KS, Watertown, NY, and Marquette, MI (all with zero hours/station), as well as Savannah, GA and Lansing, MI (.20 hrs./station). In terms of total public affairs programming (local + non-local), the best performing markets were Joplin/Pittsburg (8.67 hrs./station), Tampa, FL (5.54 hrs./station) and Salisbury, MD (5.00 hrs./station). Low ranking markets included Mankato, MN, (1.00 hrs./station), Houston, TX (2.03 hrs./station), and Reno, NV (2.28 hrs./station).

The central research question of this study was whether the quantity of public affairs programming varies according to market conditions. Figure One is a graph of the total hours of local public affairs programming available in each market during the two-week period studied. As the graph indicates, there is a general pattern of greater availability of local public affairs programming in larger markets (Joplin/Pittsburg being the visibly notable exception). When total hours of combined local and non-local public affairs programming are graphed across markets (see Figure Two), a similar pattern emerges, with larger markets generally offering more total hours of public affairs programming.

Table Three presents a means comparison between top 100 markets in the sample and markets outside the top 100. As the table indicates, in terms of local public affairs programming, and in terms of total public affairs programming (local + non-local), there are significant differences in the mean hours of programming between markets within and outside the top 100 (local: $F = 3.53$; $p < .10$; total: $F = 7.53$; $p < .05$). These results are not surprising given that larger markets generally have more commercial television stations. Thus, viewers in larger markets will generally experience a greater availability of public affairs programming.

These analyses do not, however, provide a direct indication of the behavior of individual stations within these markets. That is, how do market conditions affect the amount of public affairs programming provided by individual stations? A key question raised by the FCC's Notice of Inquiry is whether market conditions are sufficient to promote the airing of public affairs programming (Federal Communications Commission, 1999). Certainly larger markets will likely have more aggregate hours of public affairs programming than smaller markets, due to the increased number of broadcast stations. However, such a pattern tells us little about how market

conditions affect the programming decisions of individual broadcast stations.

In a first step toward investigating this issue, Figure Three provides a graph of the mean hours of local public affairs programming per station, according to market size. As the figure indicates, there does not appear to be a very strong relationship between market size and the hours of local public affairs programming (although there does appear to be a slight tendency toward more local public affairs hours per station in larger markets). There is less indication of any pattern when local and non-local public affairs hours are combined and graphed against market size (see Figure Four). These results suggest that market size and, by association, the level of market competition,⁴ may not be significant factors affecting the public affairs programming decisions of commercial broadcast stations.

Station Analysis

In order to investigate this issue more thoroughly it is necessary to look beyond markets as the unit of analysis and examine the behavior of individual stations. In order to do so, a random sample of 112 commercial broadcast television stations was generated and analyzed.⁵ The same procedure that was used to gather program and market information in the market sample was used to gather information for the station sample; however, additional market and station data were incorporated from BIA's (1999) Investing in Television Market Report. This data set includes information on the size (in terms of television households), average annual household income, and minority population⁶ of each station's market. This information was gathered in order to account for the possibility that the size and wealth of a station's market affect the amount of public affairs programming a station provides (see Federal Communications Commission, 1984, Appendix C), as well as for the possibility that minority populations factor

into public affairs programming decisions. Larger audience bases may translate into a greater diversity of viewer interests, and hence, more public affairs programming. Wealthier markets may also be markets with higher average education levels, which may translate into greater viewer demand for public affairs programming. Finally, larger minority populations may translate into more public affairs programming given that many programs labeled as “public affairs” programs are specifically oriented toward minority audiences and concerns (e.g., “America’s Black Forum”).

Information was also gathered on the competitive conditions in each station’s market (e.g., cable penetration, number of public television stations, number of commercial television stations). These measures were obtained in order to test whether the intensity of competition for television audiences affects the levels of public affairs programming that commercial broadcasters provide. For instance, greater presence of cable or public television may discourage commercial broadcasters from airing public affairs programming due to its availability via these alternative outlets, or it may encourage public affairs programming if broadcasters elect to compete with cable and public television for public affairs viewers. Greater numbers of commercial broadcasters in the market may have similar affects on the programming decisions of individual broadcasters.

Finally, information on individual station characteristics (e.g., estimated annual revenues,⁷ VHF or UHF, network affiliation), was gathered in an effort to account for additional potential explanatory factors for variation in the quantity of public affairs programming. For instance, network affiliates may be less inclined to air local public affairs programming due to the quantity of broadcast time they defer to the networks. On the other hand, network affiliates may air more

non-local public affairs programming due to their commitment to airing network-produced public affairs programming such as “Nightline” and “Meet the Press.” Similarly, revenues may factor into a station’s decision to produce public affairs programming, with wealthier stations perhaps more likely to incur the expense of producing local public affairs programming (Federal Communications Commission, 1994, Appendix C). It is important to emphasize, however, that given the lack of previous research on this subject,⁸ no specific hypotheses have been formulated regarding the relationships between the independent and dependent variables.

Overall, this sample of 112 stations included stations from 83 of the 211 television markets. As Table Four indicates, eighty-four of these stations (75 percent of the sample) are affiliates of one of the Big Four broadcast networks (ABC, NBC, CBS, FOX). Twenty-four stations (21.4 percent of the sample) are affiliated with one of the three smaller networks (WB, UPN, PAX). The remaining four stations (3.5 percent of the sample) are not affiliated with any of these networks. The VHF-UHF split is 50.9 percent UHF and 49.1 percent VHF.

These 112 stations aired a total of 118.8 hours of local public affairs programming during the time period studied. These 118.8 hours represent 0.3 percent of the total broadcast hours studied (14 days x 24 hrs. x 112 stations) and an average of 1.06 hours per station. The sampled stations aired a total of 409.46 hours of all forms of public affairs programming (local + non-local). These 409.46 hours represent 1.09 percent of the total broadcast hours studied and an average of 3.66 hours per station. These percentages and averages correspond very closely with those obtained for the market analysis (see above).

Local Public Affairs Programming

Table Five presents the results of a regression analysis with local public affairs hours as the

dependent variable. As the table indicates, the adjusted R^2 for this model is .03 ($p > .05$).⁹ Among the independent variables, only the total number of commercial television stations in the market was significant at the .05 level (beta = .37; $p < .05$),¹⁰ though of course the low R^2 indicates that this relationship is so weak as to be of no practical significance. The remaining competitive conditions indicators (cable penetration and the number of public television stations in the market) exhibited very weak relationships with the dependent variable. Neither of these variables was significant at the .05 level.

Overall, these results conform with the observations made in the market-level analysis -- that although larger markets provide a greater aggregate amount of local public affairs programming, individual stations do not respond to increasingly competitive market conditions by producing more local public affairs programming. Nor, for that matter, do they respond by reducing the amount of local public affairs programming they provide. Instead, public affairs programming appears to be unaffected by competitive conditions. The results also suggest that local public affairs programming is not a function of the size or demographic characteristics of the potential audience, nor is it a function of the basic attributes of the broadcast station. Thus, the provision of local public affairs programming appears highly resistant to economic influences.

Total Public Affairs Programming (Local + Non-Local)

A slightly different picture emerges, however, when public affairs programming is defined more broadly -- specifically, in terms of both local and non-local public affairs programming.

Table Six presents the results of a regression analysis with total (local + non-local) public affairs program hours as the dependent variable. As the table indicates, the adjusted R^2 for this model is .23, which is significant at the .05 level ($p = .00$).¹¹ The total number of commercial television

stations is significant at the .05 level ($\beta = .46$; $p < .05$). No other independent variables are significant at the .05 level, although the Big Four affiliate variable is significant at the .10 level ($\beta = .29$; $p = .07$).¹² The significant positive coefficient for the number of commercial television stations in the market ($\beta = .46$; $p < .05$) suggests that higher numbers of competing commercial television stations will compel commercial television broadcasters to increase the amount of public affairs programming they provide. Thus, when public affairs programming is defined more broadly (to include local and non-local public affairs programs), increased competition from other commercial television stations does have a modest positive effect on the amount of public affairs programming that commercial broadcasters choose to air. However, the fact that over 75 percent of the variation in public affairs programming remained unexplained by the model suggests that public affairs programming decisions are quite resistant to marketplace influences.

Conclusion

Overall, these results provide support for the notion that market incentives may not be sufficient to promote the provision of public affairs programming, particularly local public affairs programming. The availability of local public affairs programming was not significantly related to any of a variety of market and station characteristics. Only a modest relationship was found between competitive conditions (specifically, the number of commercial television stations) and all forms (local + non-local) of public affairs programming. It is possible that the relationship between competitive conditions and public affairs programming is stronger within the context of all forms of public affairs programming than within the context of local public affairs programming because stations are more likely to respond to competitive pressures (weak as they

may be) to provide public affairs programming by airing cheaper syndicated fare, rather than incurring the time and expense of producing their own programming.

Previous research, which studied, in the aggregate, a broader range of program types (news, local programming, and all forms of public affairs), found much stronger relationships between market and station characteristics and the amount of programming provided (Federal Communication Commission, 1984, Appendix C) than were found in this study, in which only public affairs programming was studied. These contrasting results suggest that public affairs programming, in particular, may be resistant to variation in station and market conditions.

As policymakers consider whether to impose specific public interest programming requirements upon digital broadcasters, the results presented here suggest that, at least in terms of public affairs programming, it is unlikely that market incentives will promote the production of such programming. If policymakers desire a level of public affairs programming in digital broadcasting that exceeds the levels currently available in the analog environment, then the institution of specific public affairs programming obligations may be necessary.

Of course, public affairs programming represents just one of many types of programming that have traditionally been associated with serving the public interest. Other types of programming, such as news, educational children's programming, and public service announcements, also contribute to the public service dimension of commercial broadcasting. The results presented here should not be generalized to these other forms of public interest programming.

1. Both the market and station samples were generated from listings in the third edition of BIA Research's (1999) Investing in Television Market Report.
2. Given the narrow time frame between the release of the Commission's Notice of Inquiry and the due date for comments, and the limited availability of searchable program schedules (see endnote three), it was not possible to study a sample of days throughout the broadcast year.
3. A maximum time period of two weeks is available on the ClickTV database at any given time.
4. In the sample of 112 commercial television stations, there is a very strong positive correlation ($r = .77$; $p = .00$) between the number of television households in a market and the number of commercial television stations in a market. There is also a strong positive correlation ($r = .62$; $p = .00$) between the number of television households in a market and the number of public television stations in a market. These correlations suggest that larger markets generally contain more competitors for television audiences.
5. This additional sample was generated and analyzed due to the fact that analyzing the individual stations contained within the market sample would not produce a sample of stations that was sufficiently generalizable to the population of television stations.
6. Minority population was measured by adding the percent Black, percent Asian, and percent Spanish-speaking statistics provided in the Investing in Television Market Report (BIA Research, 1999).
7. In incorporating station revenues as an independent variable, it was necessary to exclude from the sample those stations that did not report revenues in the Investing in Television Market Report (BIA Research, 1999). Only stations that reported revenues were included in the study due to the fact that previous research suggests that station revenues may be an important factor in

determining programming decisions (Federal Communications Commission, 1984, Appendix C).

According to BIA Research (1999), almost 80 percent of stations surveyed reported their revenues (p. 6). This is a high level of participation that alleviates some of the concerns about potential non-response error affecting the results.

8. One notable exception is a study titled “An Empirical Study of the Determinants of News and Public Affairs and Local Programming Choices of Commercial Broadcasters,” conducted in conjunction with the FCC’s 1984 decision to eliminate specific requirements for public interest programming and included in Appendix C of that decision (Federal Communications Commission, 1984). As the title suggests, this study examined a much broader range of program types than the analysis presented here.

9. The Durbin-Watson statistic of 1.95 for this regression indicates no serial correlation problem.

10. Tolerance statistics and correlation coefficients indicated no significant multicollinearity problems among the independent variables nor were there any significant indications of non-linear relationships between any of the independent and dependent variables. Consequently, no variables have been combined or omitted, nor have any linear transformations been imposed on the data set.

11. The Durbin-Watson statistic for this regression is 1.85, indicating no significant serial correlation problem.

12. Although not significant at the .05 level, the positive relationship between hours of public affairs programming and Big Four network affiliation is worth discussing briefly. This relationship is due to the fact that Big Four network affiliates typically carry at least one weekly public affairs program (“Meet the Press” on NBC; “This Week,” on ABC; “Face the Nation,” on CBS; and “FOX News Sunday,” on FOX). These weekly programs generally air in a Sunday

morning time slot. In many markets these programs receive an additional late-night airing (e.g., Monday at 2:30 AM), which further boosts the cumulative public affairs programming hours for Big Four network affiliates. In addition, ABC affiliates generally carry “Nightline” five nights per week.

Table One

Public Affairs Programming and Market Characteristic Data for Television Market Sample (N = 24)

	<u>Min/Max</u>	<u>Sum</u>	<u>Mean</u>
Local public affairs programming hours	0/47.2	156.49	6.52
Total public affairs programming hours	1/74.36	509.15	21.22
Average household income (000)	31.17/49.36	NA	42.31
Television households (000)	40/5135	NA	13473
Cable penetration (%)	55/82	NA	68.29
Number of commercial TV stations in market	1/19	142	5.92

Table Two

Market-by-Market Breakdowns of Local and Total (Local + Non-Local) Public Affairs Programming

Market (Rank)	Total Hours	<u>Local Public Affairs</u>		<u>Total Public Affairs</u>		
		% Broadcast Time	Hours/Station	Total Hours	% Broadcast Time	Hours/Station
Los Angeles, CA (2)	47.20	.74	2.48	74.36	1.16	3.91
Houston, TX (11)	12.50	.25	.83	30.50	.61	2.03
Tampa, FL (14)	14.00	.35	1.17	66.50	1.65	5.54
San Antonio, TX (37)	18.50	.55	1.85	34.00	1.01	3.40
Wilkes-Barre, PA (51)	3.00	.13	.43	20.00	.85	2.86
Flint, MI (64)	10.00	.60	2.00	23.00	1.37	4.60
Green Bay, WI (69)	2.00	.10	.33	16.00	.79	2.67
Syracuse, NY (54)	4.00	.20	.67	20.00	.99	3.33
Columbia, SC (86)	4.50	.27	.90	18.00	1.07	3.60
Burlington, VT (91)	4.30	.18	.61	18.30	.78	2.61
Colorado Springs, CO (94)	2.00	.12	.40	20.00	1.19	4.00
Savannah, GA (100)	1.00	.06	.20	15.00	.89	3.00
Springfield, MA (104)	1.00	.15	.50	9.00	1.34	4.50
Lansing, MI (106)	1.00	.06	.20	16.00	.95	3.20

Table Two Continued

Market-by-Market Breakdowns of Local and Total (Local + Non-Local) Public Affairs Programming

Market (Rank)	<u>Local Public Affairs</u>			<u>Total Public Affairs</u>		
	Total Hours	% Broadcast Time	Hours/Station	Total Hours	% Broadcast Time	Hours/Station
Reno, NV (108)	4.99	.21	.71	15.99	.68	2.28
Topeka, KS (140)	.00	.00	.00	12.00	.89	3.00
Medford, OR (143)	3.00	.15	.50	26.00	1.29	4.33
Joplin, MO (146)	17.00	1.69	5.67	26.00	2.58	8.67
Salisbury, MD (163)	1.00	.15	.50	10.00	1.49	5.00
Elmira, NY (171)	2.50	.25	.83	13.50	1.34	4.50
Watertown, NY (175)	.00	.00	.00	8.00	1.19	4.00
Marquette, MI (177)	.00	.00	.00	10.00	.99	3.33
Mankato, MN (187)	1.00	.30	1.00	1.00	.30	1.00
Bend, OR (200)	2.00	.30	1.00	6.00	.89	3.00

Figure One

Local Public Affairs Hours by Market

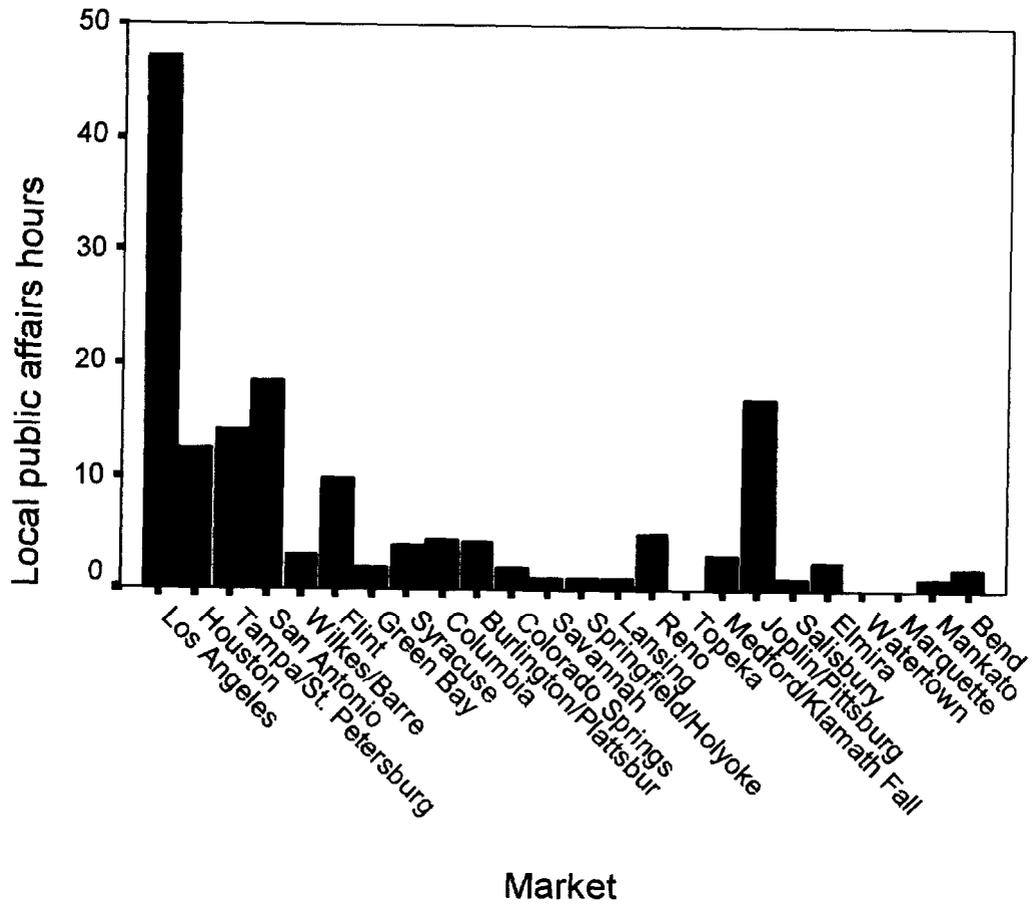


Figure Two

Total Public Affairs (Local + Non-Local) Hours by Market

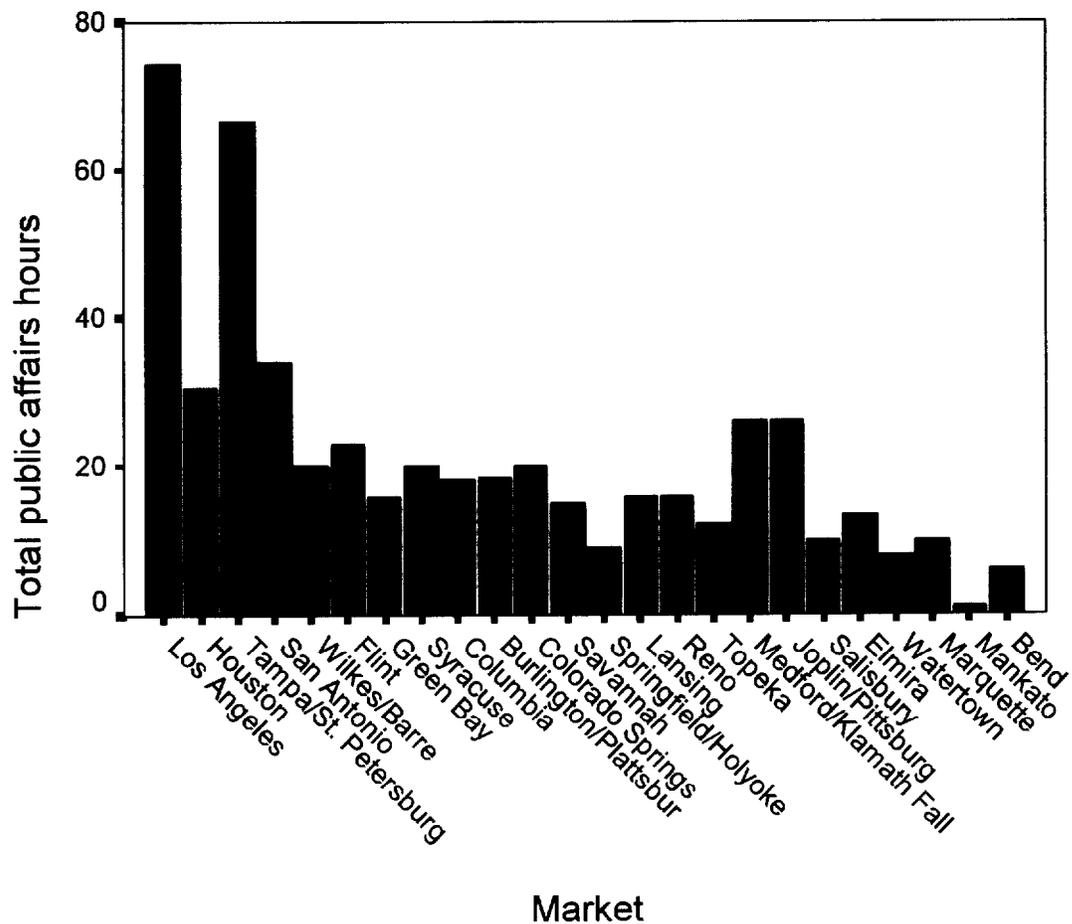


Table Three

Comparison of Mean Levels of Public Affairs Programming Between Top 100 and Non-Top 100Markets (N = 24)Local Public Affairs

	<u>Mean</u>	<u>Std. Dev.</u>	<u>Cases</u>
Within Top 100 Markets	10.25	12.91	12
Outside Top 100 Markets	2.79	4.71	12

F = 3.53 (p < .10).

Total Public Affairs

	<u>Mean</u>	<u>Std. Dev.</u>	<u>Cases</u>
Within Top 100 Markets	29.64	19.92	12
Outside Top 100 Markets	12.79	7.44	12

F = 7.53 (p < .05).

Figure Three

Local Public Affairs Hours Per Station by Market

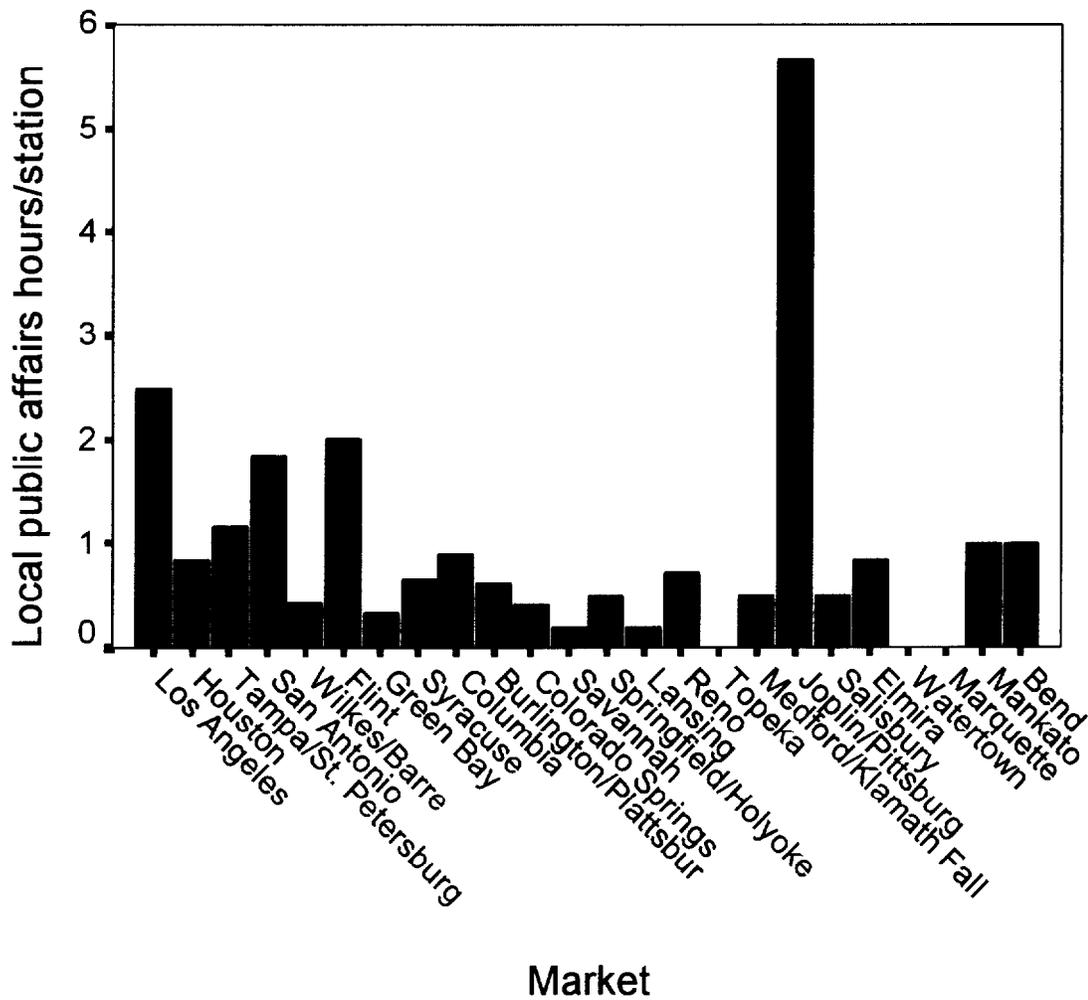


Figure Four

Total Public Affairs (Local + Non-Local) Hours Per Station by Market

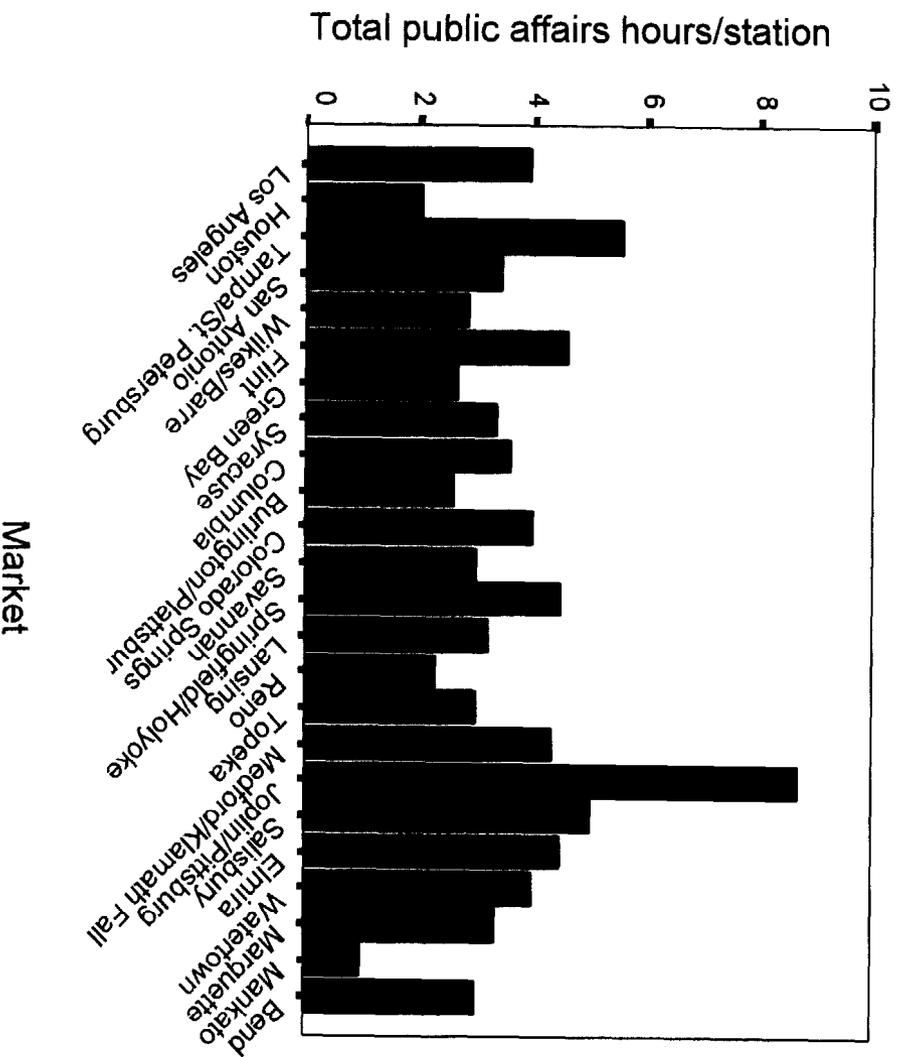


Table Four

Public Affairs Programming and Station Characteristic Data for Station Sample (N = 112)Network Affiliation

	<u>Number</u>	<u>Percent</u>
Big Four Affiliate	84	75.0
Other Network Affiliate	24	21.0
Independent	4	4.0
Total	112	100.0

VHF/UHF

	<u>Number</u>	<u>Percent</u>
VHF	55	49.1
UHF	57	50.9
Total	112	100.0

Public Affairs Programming

	<u>Min/Max</u>	<u>Sum</u>	<u>Mean</u>
Local Public Affairs Hours	0/16	118.80	1.06
Total Public Affairs Hours	0/23	409.46	3.66

Table Five

Summary of Simultaneous Regression Analysis for Variables Predicting Hours of Local PublicAffairs Programming (N = 112)

<u>Variable</u>	<u>B</u>	<u>SE B</u>	<u>Beta</u>
Station revenues (000)	.00001	.00	.19
UHF or VHF (0 = UHF; 1 = VHF)	.30	.55	.06
Big 4 affiliate (0 = No; 1 = Yes)	-.32	.96	-.06
Other network affiliate (0 = No; 1 = Yes)	-.53	.82	-.09
Television households (000)	-.001	.00	-.33
Average household income (000)	-.00002	.00	-.06
Minority population (%)	.001	.02	.01
Public TV stations	-.01	.22	-.04
Cable penetration (%)	.01	.03	.03
Commercial TV stations	.24	.11	.37*
Constant	.12	2.95	

Note. Adjusted $R^2 = .03$ ($p > .05$).

* $p < .05$.

Table Six

Summary of Simultaneous Regression Analysis for Variables Predicting Hours of Total Public Affairs Programming (N = 112).

<u>Variable</u>	<u>B</u>	<u>SE B</u>	<u>Beta</u>
Station revenues (000)	.00002	.00	.17
UHF or VHF (0 = UHF; 1 = VHF)	.59	.79	.08
Big 4 affiliate (0 = No; 1 = Yes)	2.53	1.38	.29
Other network affiliate (0 = No; 1 = Yes)	-.66	1.17	-.07
Television households (000)	-.001	.001	-.24
Average household income (000)	-.00003	.00	-.04
Minority population (%)	.01	.02	.03
Public TV stations	-.13	.31	-.05
Cable penetration (%)	.02	.04	.04
Commercial TV stations	.47	.15	.46**
Constant	-1.76	4.23	

Note. Adjusted $R^2 = .23$ ($p < .05$).

** $p < .01$.

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- Federal Communications Commission (1999). Public interest obligations of TV broadcast licensees, 1999 FCC LEXIS 6487.
- Moonves, Les (1998, April 14). Statement before the open meeting of the advisory committee on public interest obligations of digital broadcasters, Washington, DC. Available: <http://www.ntia.doc.gov/pubintadvcom/aprmtg/transcript-am.htm>.
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2

A Methodological Evaluation of the NAB Report

entitled

"A National Report on the Broadcast Industry's Community Service"
(April 1998)

Presented to:

People for Better TV

Prepared by:

Project on Media Ownership
New York University

January 24, 2000

A Methodological Evaluation of the NAB report entitled "A National Report on the Broadcast Industry's Community Service" April 1998

Executive Summary

This NAB report entitled *A National Report on the Broadcast Industry's Community Service- April 1998* concludes that radio and television stations donated at least \$6.85 billion dollars to improve community life. The timespan for this estimate is over the 12 months from August 1, 1996 to July 31, 1997.

The breakdown of the \$6.85 billion is categorized into three categories as follows:

Projected value of PSA airtime donated	\$ 4.6 billion
Projected amount raised for charities/causes	\$ 2.1 billion
Projected value of free airtime for Debates, Candidate Forums and Convention Coverage	\$148.4 million

Both from a "thousand foot" perspective and a more detailed examination into the quantification of the above categories, the methodology the researchers used to arrive at the \$6.85 billion dollar figure is subject to debate. In some cases, there are methodological flaws in deriving these estimates. In other cases, methodology, and associated assumptions used might have been reasonable, but these were not detailed or defended. As a result, the validity of the conclusions in this report is in question.

On an overall basis, the survey itself and the results that were extrapolated had the following methodological flaws:

- The survey was self-reported, which could skew it toward broadcasters that are more supportive of community service than the norm.
- Answers in the survey were not verified by an independent party against the broadcasters internal records. Thus, survey results are highly subjective.
- There was no analysis deriving the appropriate sample size needed to give the results a high degree of validity.
- There is a comparison problem in that both broadcasters and networks were included in the survey, both of which are different types of corporate entities in size and goals.
- There was not a breakdown of non-networked owned broadcasters and network-owned. This breakdown would have assisted in seeing the community service activities of different types of broadcasters.
- In the first two categories above (PSAs and Charities/Causes), the report says that the estimates are estimates of all broadcasters that received the survey extrapolated from those that completed the survey; in the third category (Debates, Candidates and Convention Coverage) the estimate is for all broadcasters and not those that received the survey. The NAB offers no explanation as to this

difference in extrapolating to different populations or in the first case, the relevance of extrapolating to those that received the survey.

Drilling down to the more specific level, there are the following methodological flaws in the three community service categories that are quantified:

Projected Value of PSA Airtime Donated

To project the value of PSA airtime donated, the NAB multiplies the run-of-station rate by the average (or median) number of PSAs that broadcasters air. The usage of both multiples have methodological flaws:

- Rate NAB uses the run-of-station price to estimate the value of donated air-time and not the price of the ad time when the PSAs actually ran. The run-of-station rate is the price an advertiser pays per ad to run many ads throughout all broadcasting times--both prime time hours and non-prime time hours. Thus, the run-of-station rate is an average of prime time and non-prime time rates. Most PSAs are run in non-prime-time hours where the rate is lower. Since the NAB is using the blended run-of-station rate, this figure is higher than the actually rate charged when the PSAs air. Even if the NAB were to claim that many of the PSAs are aired in prime time, it would have been more accurate to have the broadcasters report the time of day the PSAs actually ran and what the corresponding rates were at that time.
- Number of PSAs There is an inconsistency in measurement for the networks vs. the broadcasters because the report uses the average number of PSAs for the broadcasters but the median number of PSAs for the networks. There are 4 networks that report and the median can really disguise the range in such a small data set.
- A logical justification is never offered as to why the report extrapolated the \$4.6 billion in this category to all broadcasters that received the survey from the data of broadcasters that actually completed the survey.

Projected Amount Raised for Charities/Causes

- A logical justification is never offered as to why the report extrapolated the \$2.1 billion in this category to all broadcasters that received the survey from the data of broadcasters that actually completed the survey.
- The NAB concludes that the amount raised annually from broadcasters increases with the population it serves but the NAB does not conclude that the larger the broadcaster's population, the less that broadcaster spends per member of the population on charity fundraising. If the NAB had taken their analysis one more step, they would have have come to this latter correct conclusion.

Projected Value of Free Airtime for Debates, Candidate Forums and Convention Coverage

- In quantifying this category, the NAB does not state how it calculated the value of the air-time devoted to these political causes so we do not know if the quantification is valid.
- The NAB offers no justification as to how or why it extrapolates the \$148.4 million estimate in this category to all broadcasters from the data of broadcasters that actually completed the survey. In the other parts of the survey, they did not extrapolate to all broadcasters but rather just to those that received the survey.

Local Issues Guide Broadcasters section

Statistics Regarding Participation Rates in On-Air Community Service Campaigns and Off-Air Station Involvement

In addition to the quantification exercise above, in a section entitled “Local Issues Guide Broadcasters” the NAB reports non-monetary statistics regarding broadcasters' on-air community service campaigns and off-air station involvement. The NAB defined on-air support community service as local news broadcasts, PSAs or public affairs programming. Some of this on-air community service included on-air disaster reporting, involvement with local businesses in community service campaigns and consultation with local community leaders. Off-air station involvement was defined in a highly-inclusive way in that it included involvement in aiding the victims of disasters, donation drives, local community events, county fairs, and service organizations and their activities.

For on-air community service and off-air station involvement, the NAB reports a percentage of TV and radio stations that are involved in the above activities and does not make an attempt to quantify these activities either in airtime minutes or dollar terms. Thus, through the percentages, we get a sense of how many stations engaged in this type of community service—even if only one time—but not an indication as to the real scale of these efforts. The average number of minutes or average value of on-air community service was not reported nor was the value of off-air involvement pinpointed in dollar terms or time spent. Rather, the NAB reported only whether or not broadcasters ever did these activities, so broadcasters that engaged in these activities only once were included in the percentages of broadcasters that said they performed these activities. There is no reporting that gives a sense of scale or broadcaster's commitment to on-air community service campaigns and off-air station involvement.

Last, in this section, the NAB considers activities like donation drives and county fairs as part of broadcasters' community service. Activities such as these are part of any corporation's obligation to be a good corporate citizen and are not specific to broadcasters. Instead, the broadcasters real contribution to what we deem as broadcaster community service should only be tabulated in terms of donated airtime, both in the value of the air-time and the community benefits the air-time produces.

Overall Perspective of The Report

Serious Study or Public Relations Brochure?

The aim of the report seems to be to positively portray the community service efforts of the broadcasters rather than attempt a serious analysis of the data the broadcasters are reporting. The study appears to be more of a public relations brochure than an objective study. The report is filled with over 17 pages of anecdotal examples as opposed to only one page describing the research methodology.

Self-Reporting

The data was self-reported by broadcasters and it is un-audited in that there was not an independent certified public accounting firm or other appropriate independent party reviewing the data for accuracy and consistency. Thus, we do not know if the broadcasters interpreted the questions in a similar way or checked their records to verify their actual participation in community service during the year surveyed. The recollections of the party filling out the survey at the TV or radio station could have been inaccurate but there was no auditing entity to verify the survey answers.

When studies are based on self-reported data, the results tend to be skewed because self-reporting usually attracts parties that are reporting in the affirmative. Broadcasters that are assisting the community would have an interest in reporting and probably due to their commitment, they would be more likely to have staff involved in the community service efforts that could spend time filling out the survey. Stations that did not return the survey might not have done so because they do not have staff involved in community service efforts or a commitment to community service. In the same vein, individual state broadcaster associations distributed the survey, which also skews the results in that industry "insiders" were managing the distribution. It stands to reason that the associations that are more committed to community service would manage the process so that the surveys of their constituents were completed thereby again skewing the results in the affirmative.

Sample Size

There is no calculation, using common statistical tools, of the appropriate sample size that would make this report valid. The overall response rate for the project was 42% with the completion rate among television stations at 63%, 100% among the networks and 39% for radio. (The report did not give a breakdown between non-network owned TV stations and network .)_The NAB report claims this response rate is unusually high; even among association members most mail surveys tend to fall in the 20% to 30% response range. However, a high response rate does not indicate validity of a sample size. However, the NAB did send the completed surveys to Public Opinion Strategies, an Alexandria-based research firm, to be tabulated and analyzed. Was this research firm an independent party? The report gives no evidence on this matter

Extrapolation

The NAB includes both the four major networks and typical television stations in their quantifications. The inclusion of data derived from both networks and typical TV stations probably “corrupts” the conclusions and the extrapolations because networks are different operationally from typical television stations and so including the data of both in the same conclusion is flawed. It is like collecting data on both apples and oranges and making conclusions.

An indication of the differences in the survey results of the networks and the typical television stations is in the reported weekly PSAs. The report says that the typical television station runs an average of 137 PSAs a week and the four networks run a median of 41 PSAs per week. These numbers are very far apart and would affect the margin of error in prediction and extrapolation. Thus, the inclusion of both network data and the broadcaster data in the data set probably is the reason for 95% confidence level vs a higher 98% confidence level (confidence within two standard deviations) or 99.7% confidence level (confidence within three standard deviations). In other words, the 95% confidence level is high but the extrapolation would be more valid at the higher confidence level. However, the 95% might be an appropriate confidence level for this type of survey but no evidence is offered and the report does not pinpoint the reason for this confidence level. Is it due to the fact that networks had higher community service activities or it is because the overall data reported has this variance?

Methodologies Used in the Three Community Service Categories

The methodologies and assumptions the NAB uses in quantifying the three separate categories of community service can be contested as follows:

Public Service Announcement (PSA) Air Time Donated-estimated \$4.6 billion

In quantifying the value of PSAs, the NAB report uses the average run-of-station charged for a 30 second spot multiplied by the total number of spots. Usage of the run-of-station rate can be contested because this is an average of all ad time slots available in a 24-hour period. The stations do not normally air PSAs during prime time, when audiences and rates are at their highest, because these spots are usually filled to capacity with paid advertising at the highest rates. PSAs are usually made during non-primetime and are “filler spots” that are used in lieu of unsold paid advertising spots. For this reason, PSAs are most often seen on late night TV or on weekend mornings. This analysis is similar for the total value of radio PSAs which is quantified using an average rate and not the lower rate in effect when the PSAs are usually aired.

In addition, the report extrapolates out a figure of the value of donated PSA air-time to all stations that received the survey. Why extrapolate out to those that merely received the survey--why not extrapolate out to all stations if the NAB feels their 95% confidence level makes extrapolation accurate?

There is a mix of metrics report with respect to television stations. The four networks reported a median number of 41 PSAs while the typical TV station ran an average of 137 per week. There is an inconsistency in using the median number for the networks' reporting of PSAs. The median is either the middle number or the average of the two middle numbers in a data set. In a data set of four networks, 41 is the average of the two middle numbers but 41 does not tell us much because mathematically the lower numbers in the data set could be 0 and 0 and there could still be a median of 41 if the third data point is 82 $[(82 + 0)/2 = 41]$. Is there something in the network reporting that needed to be disguised by using the median number? There could be a reasonable case for using the median, but the NAB doesn't make a case in the text.

Amount Raised for Charities/Causes-estimated at \$2.1 billion

Similar to the analysis of the value of PSA air-time donated, the report uses extrapolation to calculate a total figure for the 12 month period surveyed of \$2.1 billion, this total being attributable to stations who were mailed a survey and not all stations.

The NAB cites that "As one might reasonably expect, the amount raised for charitable causes also increases with the population it serves." This comment is written in relation to a chart on page 7 which is represented below:

Residents	Under 25,000	25,000- 75,000	75,000- 1 mil	Over 1 mil
Average Raised	\$25,600	\$90,200	\$165,000	\$404,200

The NAB's claim of reasonable expectation is not reasonable because this chart shows that the average dollars raised per person in the population served actually declines if we do this calculation using the mean number of residents in the population categories:

Average Residents	12,500	50,000	87,500	Cannot calculate
Average Raised	\$25,600	\$90,200	\$165,000	\$404,200
Amt Raised/Person in Population Served	\$2.05	\$1.80	\$0.31	?

In the far right column, we can calculate an amount raised per person in the population served if we assume that some broadcaster serve a population as high as 5 million. We can then take average of 1 million and 5 million, which is 3 million and divide it by the

average raised of \$404,200, which would bring the amount raised/per person in the highest population served to 13 cents.

One might reasonably expect that the since broadcasters with larger populations can charge higher rates for advertising spots and have the ability to be more profitable, they would at least spend the same per person on charitable causes as the broadcasters with the lower coverage area. It appears that the NAB has presented these numbers for charity money raised without the true analysis as it relates to the broadcasters with the larger populations.

Projected Value of Free Airtime for Debates, Candidate Forums and Convention Coverage—estimated at \$148.4 million

In making the \$148.4 million estimate, the NAB does not give any clue as to how they calculated the value of the air-time. Did the broadcasters make their own estimate or did the NAB assign a value itself to the airtime? One is left to guess.

The NAB also reports percentages of broadcasters that ran specific segments in the political arena. For example they report that 54% of all broadcasters aired a segment profiling candidates or their issue/stands. Reporting a percentage in this way does not give an indication as to the scale of this type of coverage. Broadcasters that aired only one candidate profile lasting only 30 seconds would be included in the 54%. In the same vein, many of the broadcasters included in the 54% may have only aired a few short segments; it is impossible to determine the scale and impact from this type of percentage data.

The NAB offers no justification as to how or why they extrapolate the \$148.4 million estimate in this category to *all* broadcasters from the data of broadcasters that actually completed the survey. In the other parts of the survey, they did not extrapolate to all broadcasters but rather just to those that received the survey.

Local Issues Section of Report (entitled *Local Issues Guide Broadcasters*)

In addition to quantifying community service, the NAB report surveyed broadcasters about their on-air community service campaigns whether through local news broadcasts, PSAs or public affairs programming or off-air activities to aid the victims of disasters. The NAB reported the percentage of broadcasters that undertook these activities as 66% of TV stations and 68% of radio stations. It was not stated whether these percentage resulted from broadcasters that completed the survey, those that received the survey or all broadcasters. In addition, the PSAs were already quantified in the report in the \$6.85 total community service estimate so it seems odd to include them in this category as well.

Methodologically, the NAB reported the percentage of stations that did this on-air community service within the 12 months surveyed but they did not report what percentage of total airtime on average was devoted to this type of programming. One would be especially interested in the amount of programming, reported in a metric such

as minutes, that is done during prime time which has the greatest audience and would therefore give community service programs the greatest reach.

The NAB also reports the percentage of stations which covered specific issues such as aids or alcohol abuse in a PSA, locally-produced public affairs program or news segment. For the nine issues surveyed, the percentages of stations that covered an issue was over 70% in every case and as high as 94% in the highest case. Again, what was the time devoted in minutes? The way this is reported a broadcaster could have aired one PSA or one public affairs program on one issue and the broadcaster would be accounted for in these percentages.

Toward the end of this Local Issues section, the NAB reports that "more than eight in ten broadcast stations involve local businesses in their community service campaigns." The report does not denote whether these stations are those that completed the survey *or* an extrapolation of those that received the survey *or* all stations. This is a bit vague--how is "involvement" defined? Are the businesses involved in such a way that it truly benefits the community? It would be interesting to have an estimate of monetary value that the broadcasters are soliciting from local businesses for the community or conversely, an estimate of the value of the benefit to the local business of the broadcasters' efforts.

In the last paragraph of the Local Issues section, the NAB cites that "more than 75% of stations say they consult with local community leaders in deciding which issues and causes to address." Again, the report does not denote whether these stations are those that completed the survey *or* an extrapolation of those that received the survey *or* all stations. As important, who are these so-called "community leaders" that have been consulted? The report does not define the term "community leader" and are these "community leaders" the people that can really add the appropriate input into a station's community service program? These "community leaders" might be self-interested--vested in certain political factions or specific charities--and therefore their advice might not objective and useful.



3



The Project on Media Ownership



Findings from a National Survey

Lake Snell Perry & Associates

May 1999



Methodology

This report is based on a national survey conducted by Lake Snell Perry & Associates for the Project on Media Ownership.

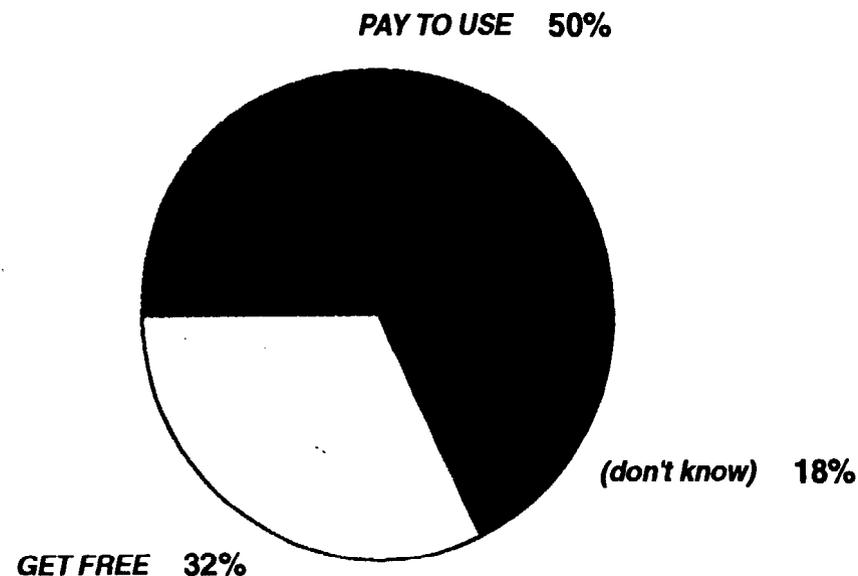
Lake Snell Perry & Associates designed and administered this survey which was conducted by telephone using professional interviewers. The survey reached a total of 1400 adults nationwide age 18 years or older, who indicated they are registered to vote and likely to vote in the 2000 general election, including oversamples of 200 African American respondents and 200 Hispanic respondents. The survey was conducted between April 6-11, 1999.

Telephone numbers for the survey were drawn from a random digit dial sample (RDD). The sample was stratified geographically by state based on the population in each region. The oversamples were weighted into the base sample so that the oversampled group reflects its actual contribution to the total population. The sample size with these weights applied is 1000 cases. The data were weighted by race, age, gender, and education to ensure the sample is an accurate reflection of the population. The margin of error for this survey is +/-3.1%. The sampling error for subgroups is greater.



**Two-thirds of voters are unaware that
broadcasters use the airwaves for free.
Half mistakenly believe they pay for this
access.**

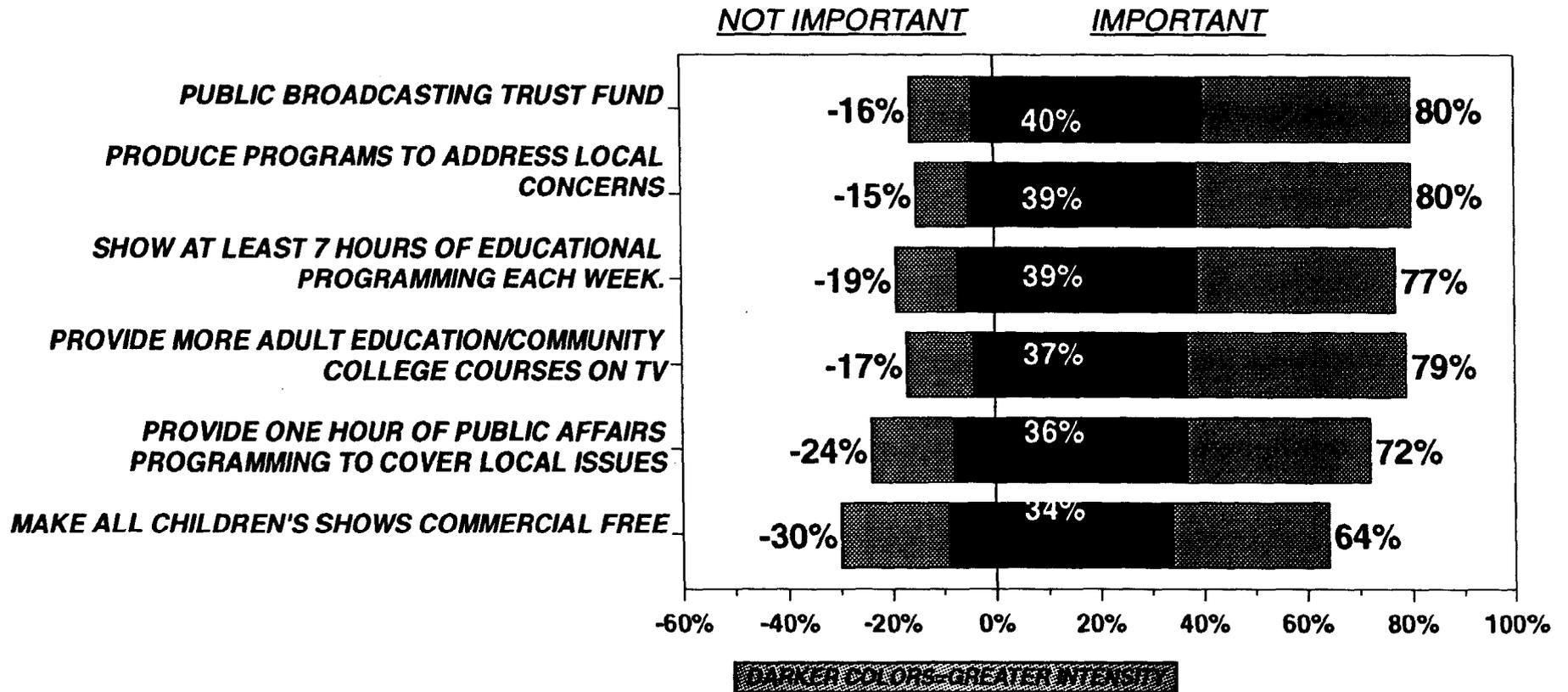
As you may know, television broadcasters need access to the airwaves in order to broadcast their programs. They get that access from the Federal Communication Commission, or FCC. Do you think that broadcasters pay to use these airwaves or do you think they get to use them for free?





Other important proposals include broadcasters paying into a trust fund and various proposals to increase local, educational, and public affairs programming, and put limits on commercials.

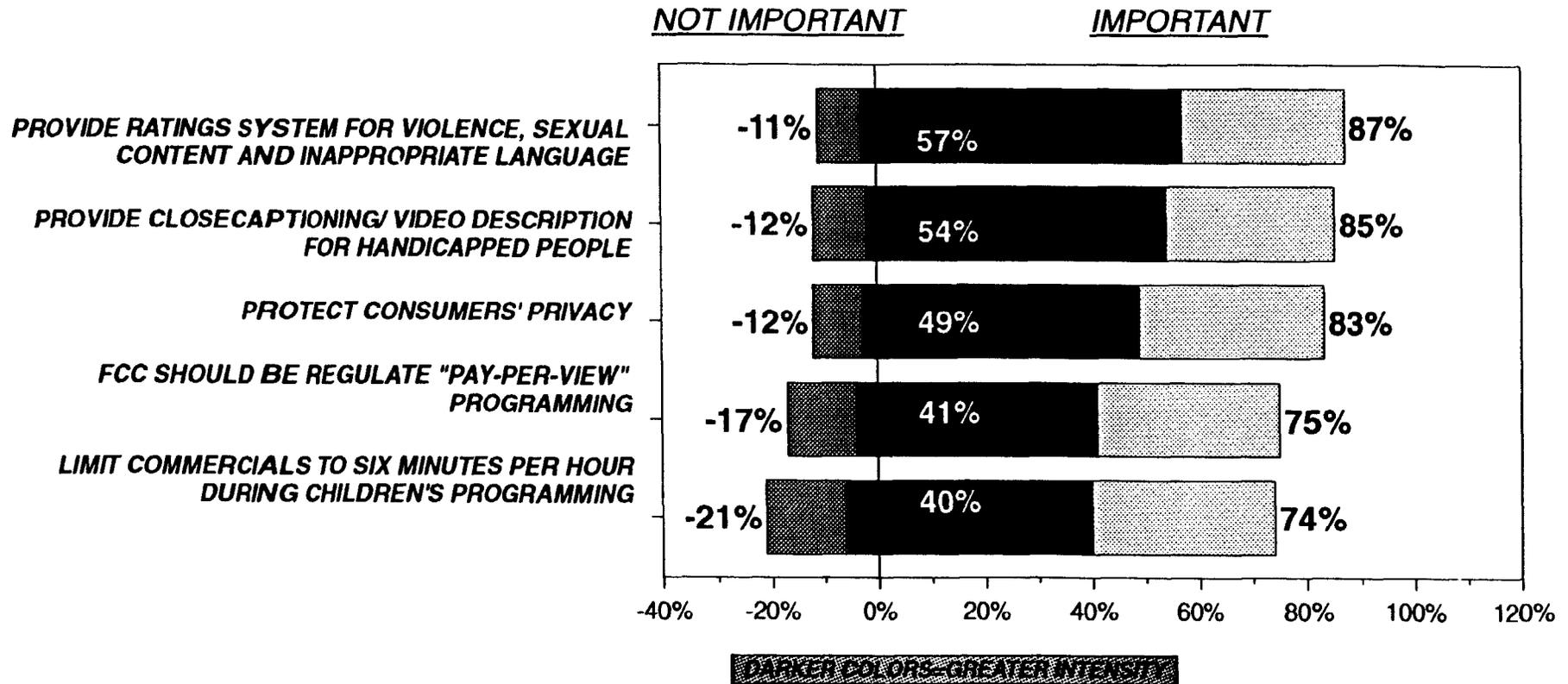
As you may know, the Federal Communications Commission recently GAVE broadcasters access to FREE additional public airwaves in order to develop new technology called digital television. The public now has an opportunity to say what broadcasters should give back to the public in return for free use of the airwaves. I am going to read you a number of public service proposals on the part of broadcasters in for the free use of public airwaves. Please tell me how IMPORTANT each one is to you personally.





Every proposal tested about broadcasters' debt to the public gains at least majority support. The proposals voters find most important include providing a ratings system, close-captioning, protecting consumers' privacy, regulating pay-per-view, and more local programming.

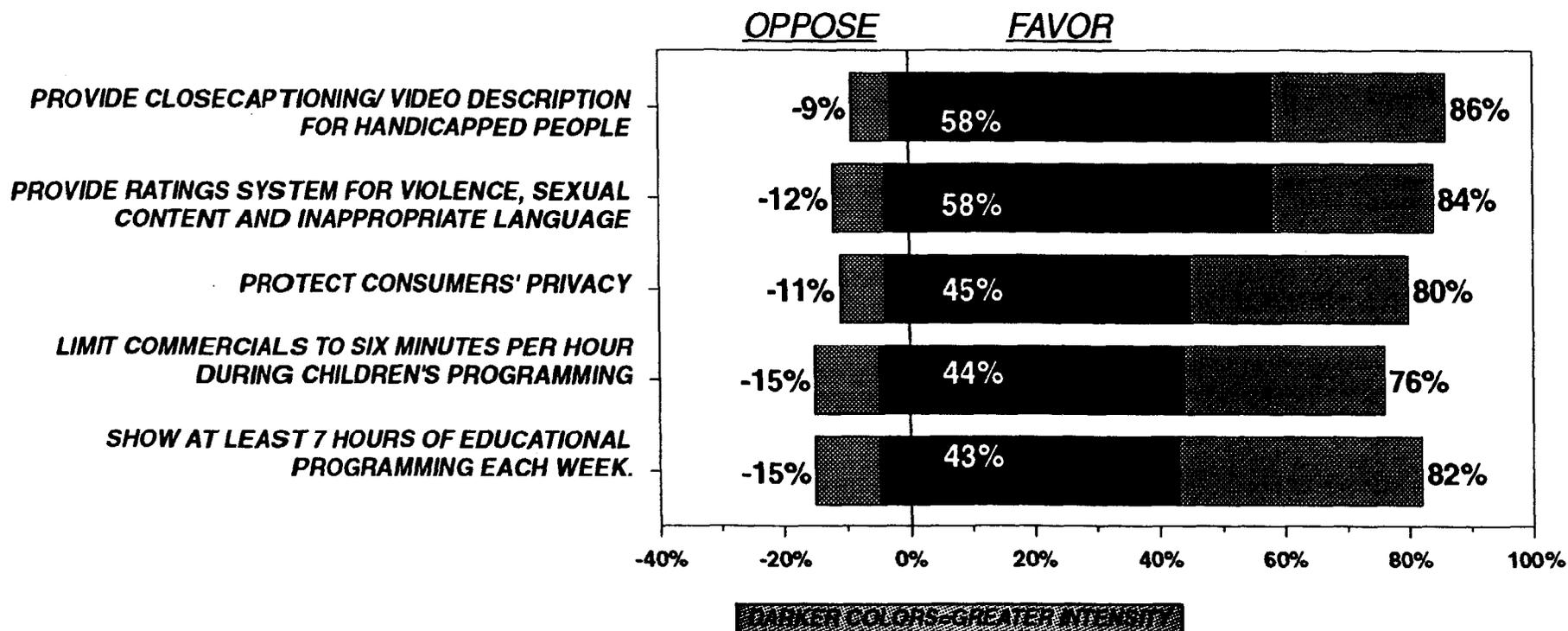
As you may know, the Federal Communications Commission recently GAVE broadcasters access to FREE additional public airwaves in order to develop new technology called digital television. The public now has an opportunity to say what broadcasters should give back to the public in return for free use of the airwaves. I am going to read you a number of public service proposals on the part of broadcasters in for the free use of public airwaves. Please tell me how IMPORTANT each one is to you personally.





Additionally, voters are intensely favorable toward these proposals, specifically close-captioning, a ratings system, protecting consumers' privacy, requiring more educational programming, and limiting commercials.

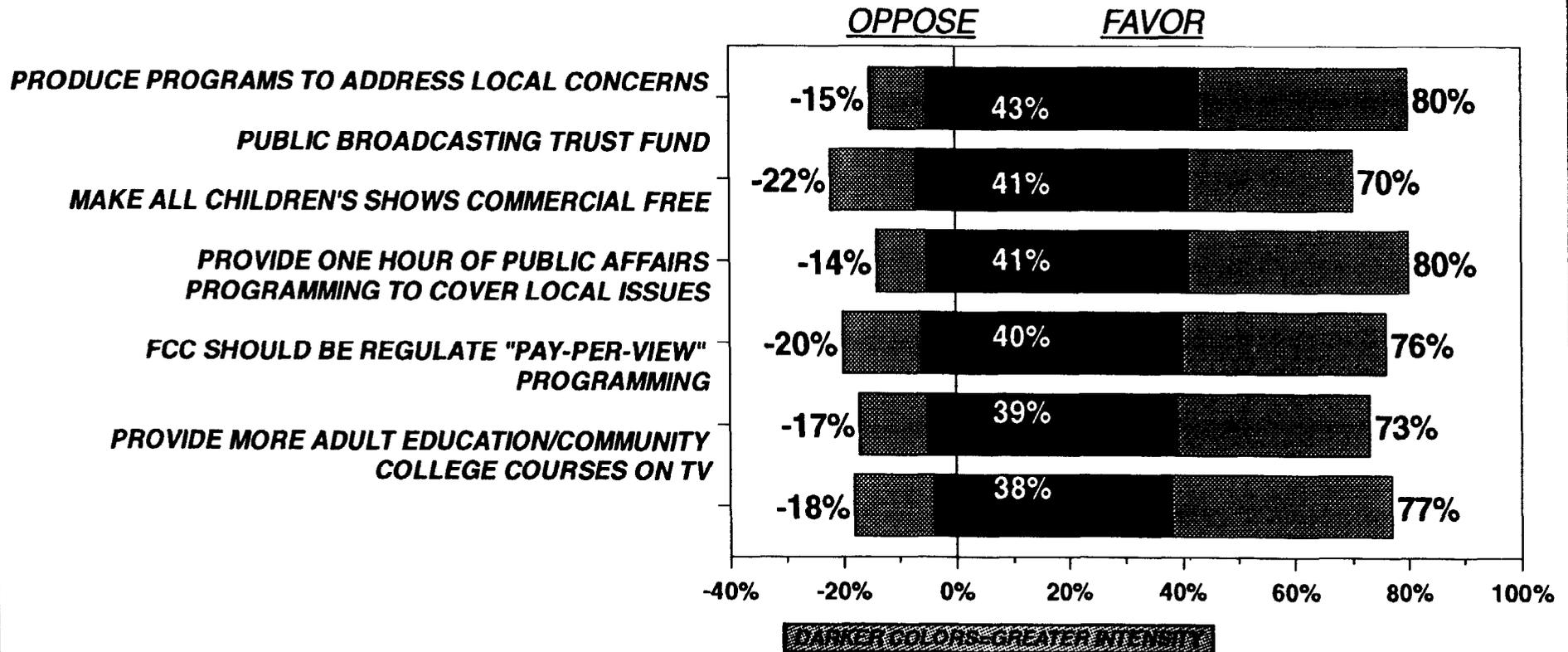
As you may know, the Federal Communications Commission recently GAVE broadcasters access to FREE additional public airwaves in order to develop new technology called digital television. The public now has an opportunity to say what broadcasters should give back to the public in return for free use of the airwaves. After I read each one, please tell me whether you would strongly favor, somewhat favor, somewhat oppose or strongly oppose each of the following proposals.





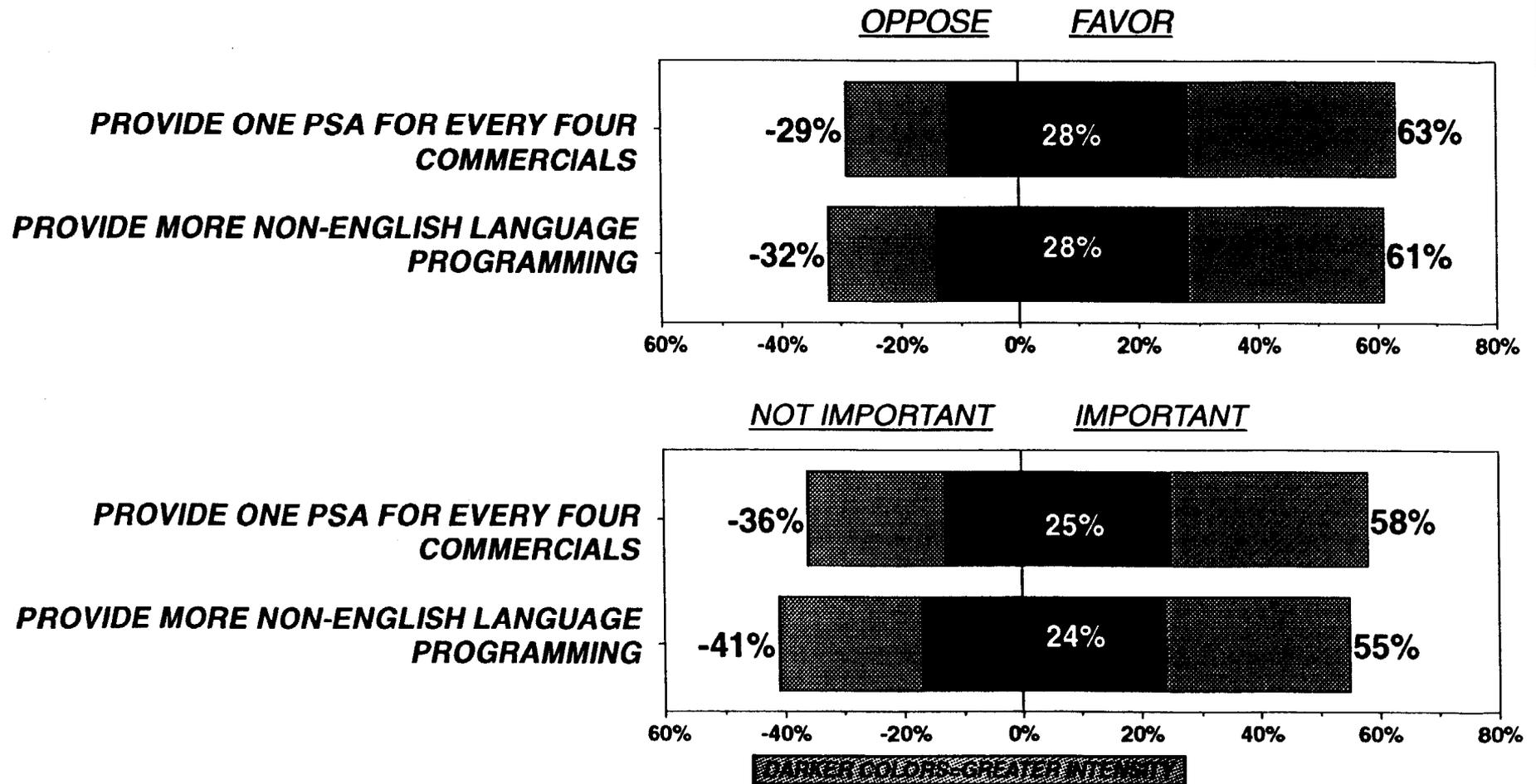
Producing programming which addresses local concerns, making children's shows commercial free, and providing more adult educational and local public affairs programming are a strong second tier of proposals.

As you may know, the Federal Communications Commission recently GAVE broadcasters access to FREE additional public airwaves in order to develop a new technology called digital television. The public now has an opportunity to say what broadcasters should give back to the public in return for free use of the airwaves. After I read each one, please tell me whether you would strongly favor, somewhat favor, somewhat oppose or strongly oppose each of the following proposals.





Proposals to provide more public service announcements and more non-English language programming are less popular with voters.



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October 1999

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

In the Matter of
Public Interest Obligations
Of TV Broadcast Licensees

)
)
)
)
)

MM Docket No. 99-360

**Comments of
CHILDREN NOW**

1212 Broadway, Fifth Floor
Oakland, CA 94612
(510) 763-2444
www.childrennow.org

March 24, 2000

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I. INTRODUCTION

Children Now, in association with the national coalition People for Better TV, hereby submit the following comments in response to the *Notice of Inquiry* (hereinafter, “*Notice*”) in the above-captioned proceeding that was released on December 20, 1999.

Children Now commends the Commission for opening this inquiry into the public interest obligations of television broadcast licensees as the revolutionary transition from analog to digital television (“DTV”) technology begins. The implications of this transition and its effects on the American public, particularly America’s children, are unprecedented.

These comments will begin by exploring the particular importance of children’s issues for this FCC inquiry, the Advisory Committee’s recommendations regarding children’s programming in the digital era, and the specific FCC requests that we will address. The second section will examine the DTV technological advances that will impact children most significantly during the transitional period. The third section will assess the Children’s Television Act of 1990 and its impact on current programming. Finally, we present a set of recommendations regarding areas of DTV broadcasting that will affect children. These recommendations are starting points for further research and analysis, and should be considered for future rule-making. Children Now joins People for Better TV in their request for a rule-making proceeding and hearings to determine specifically the public interest obligations of digital broadcasters.¹

These comments benefit from a series of discussions that Children Now has undertaken since the beginning of 2000. This series includes conversations with leading academics, advocates, and industry professionals, regarding their general opinions of

DTV public interest obligations and children.² We will continue this important process with a formalized schedule of interviews and meetings throughout the rule-making process to obtain the highest level of relevant expertise.

A. The State of the Nation's Children

Officials recognize that the meaning of the public interest will change – indeed, must change – in a new communications environment in which viewers rather than programmers choose what to watch and when, and in which viewers may one day even produce and distribute programs themselves. There are few firm points of agreement on how this new communications environment should be structured or whom it should serve . . . But everyone everywhere can agree on one precept: the public interest requires us to put our children first.³

The FCC's *Notice* presents several important areas of inquiry with sub-headings such as "Disclosure Obligations," "Disaster Warnings," "Disabilities," "Diversity," and "Enhancing Political Discourse."⁴ While the obligations regarding children's programming do not have their own category, the FCC does request comments on how digital broadcasters may serve the nation's children.⁵

Considering that America's children currently consume the equivalent of a full-time work week using media that digital television will provide, they may be one of the most vulnerable and needy populations with respect to the digital transition.⁶ First,

¹ See People for Better TV, Petition for Rulemaking and Petition for Notice of Inquiry (filed June 3, 1999) (PBTV Petition); Letter from People for Better TV to William E. Kennard, Chairman, FCC, Nov. 16, 1999 (PBTV Letter).

² Children Now has conducted informal and exploratory conversations with experts such as: Ms. Peggy Charren (Founder, Action for Children's Television), Professor Katharine Heintz-Knowles (children's media consultant), Professor Amy Jordan (Annenberg School for Communications, University of Pennsylvania), Professor Dale Kunkel (University of California, Santa Barbara), Professor Donald Roberts (Stanford University), Ms. Marjorie Tharp (American Academy of Pediatrics), and Dean Ellen Wartella (University of Texas). The comments of these participants have been incorporated into this statement where appropriate.

³ Minow, Newton and Craig LaMay, *Abandoned in the Wasteland: Children, Television, and the First Amendment* 14 (1995).

⁴ See *Notice* at ¶¶15, 18, 24, 29, and 34.

⁵ *Id.* at ¶12.

⁶ Henry J. Kaiser Family Foundation, *Kids and Media at the New Millennium (Executive Summary)* at 6 (Nov. 1999) ("The average child spends about five and a half hours a day using media (5:29) – more than 38 hours a week.").

broadcast content designed for children is scarce and often of low quality.⁷ Parents continually search for and request more quantities of higher quality programming for their children.⁸ As recently as 1999, the Journal of Broadcasting & Electronic Media published a survey of parents regarding the Children's Television Act of 1996 and the Educational/Informational ("E/I") programming requirements. Although 63% of parents had not heard of the E/I requirements, 82% of parents either "somewhat favored" or "strongly favored" them, and 79% thought that the E/I programming would do "some" or "a lot" of good for children.⁹ Parents and caretakers of America's young people are asking for better content for kids, and more of it.

Further, the ancillary and supplementary services that DTV broadcasters can provide, such as datacasting, paging, or interactivity, raise the specter of privacy and protection concerns that have haunted children's policy in the Internet arena for the past several years.¹⁰ Once again, the enhanced capabilities to inquire, target, and collect data from consumers present unparalleled financial opportunities for businesses and unparalleled risks for the public, especially children. These concerns will be both magnified and immediate if the DTV convergence reaches a critical mass.

Finally, the next decade will host a DTV dialogue between government, broadcasters, federal agencies, business, and the public that is filled with technical

⁷ Center for Media Education, *Digital TV in the Public Interest (op-ed)*, (last visited Nov. 2, 1999) <http://www.cme.org/dtv_in.htm>. See also, Part III.F, *infra* (recent observations regarding local broadcasting from People for Better TV members). [Please note that these comments refer to several leading Internet sites that contain the most current research regarding digital television.].

⁸ See, e.g., Walsh, Ann, et al., *Mothers' Preferences for Regulating Children's Television*, J. of Advertising 23 *passim* (No.3, Vol.27, Sept. 22, 1998).

⁹ J. of Broadcasting & Electronic Media, September 22, 1999.

¹⁰ See Federal Trade Commission, *New Rule Will Protect Privacy of Children Online*, (released Oct. 20, 1999); Children's Advertising Review Unit, *Statements Re: Workshop on Proposed Regulations Implementing the Children Online Privacy Protection Act (July 20, 1999)*, July 30, 1999; Ian Auston, *But*

questions, transition timelines, price points, market penetration, and extraordinary advances. Perhaps the greatest vulnerability for America's children is the risk of being eclipsed amidst the unprecedented technology and endless commercial opportunities. Thus, it is everybody's duty to realize the unprecedented and endless opportunities that we have to make the digital world a better place for children.

B. Children & the Advisory Committee on the Public Interest Obligations of Digital Television Broadcasters

In 1997, Vice President Gore and the Office of the President convened an Advisory Committee to explore the public obligations of digital television broadcasters, which resulted in a comprehensive final report with broad recommendations for the FCC.¹¹ The Committee addressed the concerns of children and children's programming at several points throughout its report, including a history of the Children's Television Act and the public mandate for broadcasters to serve the nation's children.¹² The Advisory Committee made the following specific recommendations: data about children's and educational programming should be included in broadcasters' quarterly disclosures of public interest activities; digital stations must determine or ascertain a community's needs and interests regarding children's programming as part of their minimum public interest requirements; the FCC should reserve the equivalent of one 6 MHz channel in each viewing area from recovered analog spectrum for noncommercial

First, Another Word from our Sponsor, N.Y. Times, Feb. 18, 1999, at D1; Jamie Beckett, *Kids Tell All Online*, S.F. Chron., Sept. 22, 1998, at C1.

¹¹ See Executive Order No. 13038, §2, 62 Fed. Reg. 12,065 (1997).

¹² Advisory Committee on Public Interest Obligations of Digital Television Broadcasters, *Charting the Digital Broadcasting Future: Final Report of the Advisory Committee on the Public Interest Obligations of Digital Television Broadcasters* at §II, *The Public Interest in Children's Educational Programming* (1998) [hereinafter Advisory Committee Report] (discussing the *Children's Television Report and Policy Statement*, 50 FCC 2d 1, 5 (1974) and *Action for Children's Television v. FCC*, 564 F.2d 458, 465 (D.C. Cir. 1977), "It seems to us that the use of television to further the educational and cultural development of

educational programming, including children’s education; fee collection from multiplexing should be used to produce and air educational programming that would otherwise not be commercially feasible; broadcasters should datacast educational programming from preschool through higher education and public school information; and broadcasters should have the option of a “pay-or-play” model of public interest obligations where collected monies would be applied to children’s programming.¹³

Children Now is encouraged by the Advisory Committee’s thoughtfulness regarding how to serve the nation’s children in the digital era, and we have analyzed and incorporated some of its recommendations and principles into these comments.

C. The Federal Communications Commission’s Notice of Inquiry

The FCC *Notice* invites discussion and proposals addressing “whether and how existing public interest obligations should translate to the digital medium.”¹⁴

Specifically, the FCC is requesting comments on how both analog and digital broadcasters must operate consistently in the public interest during this lengthy transition period from analog to digital.¹⁵ Children Now’s comments will address the following requests, with a focus on children and children’s programming:

- How can broadcasters serve the nation’s children in the digital environment?
(*Notice* at ¶12);
- Do a licensee’s public interest obligations apply to its ancillary and supplementary services? Should broadcaster activities on ancillary and

America’s children bears a direct relationship to the licensee’s obligations under the Communications Act to operate in the ‘public interest.’”)

¹³Advisory Committee Report at §§III.1, III.3, III.4(b) (“The opportunity for digital television to improve student achievement has extraordinarily high stakes for our Nation . . . We put our children at a competitive disadvantage in the global economy if we do not invest wisely in educational resources.”), III.4.c, III.5,

¹⁴ *Notice* at ¶10.

¹⁵ *Id.* at ¶8.

- supplementary services count toward the public interest obligations? (*Notice* at ¶13);
- What information should be included in the public files of digital broadcasters? Do the FCC's reasons for eliminating the previous ascertainment requirements apply to the proposals for rule-making for the digital era? (*Notice* at ¶16);
 - How can broadcasters use the Internet and similar capabilities through DTV to ensure that they are responsive to the needs of the public? (*Notice* at ¶17);
 - Should the Commission establish more specific minimum requirements or guidelines regarding television broadcasters' public interest obligations? If so, how should these requirements be defined and communicated to licensees? (*Notice* at ¶22);
 - How can broadcasters use "multicasting" and other new technologies associated with DTV to enhance access to the media by all people, particularly people from diverse and underrepresented backgrounds? What other ways could and should the Commission encourage diversity in broadcasting, consistent with relevant constitutional standards? (*Notice* at ¶¶23, 33).

II. DTV'S TECHNOLOGICAL ADVANCES & CHILDREN

In 1997, the federal government allocated an additional 6 MHz bandwidth to every existing broadcaster as part of a giveaway valued at approximately \$70 billion.¹⁶ This authorization was the first step in a comprehensive digital conversion plan, targeted for completion by 2006. Toward that goal, the FCC issued a timetable for digital

¹⁶ Federal Communications Commission, *Digital Television Tower Siting Fact Sheet and Frequently Asked Questions* (last modified June 18, 1998) <<http://www.fcc.gov/mmb/prd/dtv/>> at introduction, Question 25

broadcasting, requiring all stations affiliated with ABC, CBS, NBC, and Fox in the top 10 markets to begin at least one digital broadcast by May 1, 1999. A second deadline was set for markets 11-30 by November 1, 1999.¹⁷ Thus currently, broadcasters have two sets of bandwidth to use: (i) their original analog bandwidth, and (ii) the additional 6 MHz designated for digital conversion. As the transition progresses, the FCC has determined that broadcasters must return the bandwidth currently used for analog broadcasting when the conversion reaches its completion point (i.e., spectrum recovery). Correspondingly, the FCC and Congress have asserted that portions of these returned bandwidths will be designated for public uses such as public safety and police and fire department needs.¹⁸ Although 2006 is the hard deadline originally established by the FCC, the completion point for digital conversion has been debated by broadcasters who have cited numerous time-sensitive obstacles such as tower construction and local zoning. Through a series of FCC inquiries and hearings, a compromise has been reached, setting a modified deadline of 2006 unless one or more of the largest television stations in a market do not begin DTV transmission through no fault of their own or there is less than 85% market penetration.¹⁹ In any case, complete conversion is scheduled to arrive, shepherded by both government and industry.

[hereinafter FCC, *Digital Television Tower*]; People for Better TV, *Here Comes Digital TV* (last visited March 13, 2000) <<http://www.bettertv.org/digital.html>>.

¹⁷ FCC, *Digital Television Tower*, *supra*, at introduction.

¹⁸ FCC, *Digital Television Tower*, *supra*, at introduction, Questions 4-5; Andy Carvin, Corporation for Public Broadcasting, *Digital Television: A New Tool for Education?* (Oct. 30, 1998) (last visited February 22, 2000) <<http://edweb.gsn.org/teled98/speech.html>> [hereinafter Carvin & CPB].

¹⁹ Advisory Committee Report at §I, *How Digital Television Will Evolve: The Plan*. See also FCC, *Digital Television Tower*, *supra*, at introduction, Questions 12-13; Carvin & CPB, *supra*; Robert X. Cringely, Public Broadcasting Service, *Digital TV: A Cringely Crash Course* (last visited Mar. 2, 2000) <<http://www.pbs.org/opb/crashcourse/hdtv/timeline.html>> at § *Digital Broadcast Timeline* [hereinafter Cringely & PBS]; Digital Television: The Site, at § *What is Digital Television? Consumer Information Page* (last visited Mar. 2, 2000) <<http://www.digitaltelevision.com/what.shtml>>; National Association of Broadcasters and PricewaterhouseCoopers LLP, *Digital Television '99: Navigating the Transition in the US* (last visited Mar. 13, 2000) <<http://www.nab.org/Research/Reports/DIGITALTV.htm>> (“The DTV

Over the past few years, the media attention garnered by digital television has focused on DTV's enhanced audio-visual qualities and the high price points of viewer reception equipment.²⁰ While both issues have significant effects on the public, there are several other technological advances that have not reached mainstream consciousness but will impact the public in important ways.

For this comment, Children Now has identified three specific advances that will affect children and children's programming: (1) Enhanced Audio-Visual Quality; (2) Multicasting; (3) Multiplexing – Ancillary & Supplementary Services. Further, these three advances combine to provide an overall digital viewer experience; the variability of this experience due to individualized bandwidth management is a separate and specific area of concern. In this section, Children Now presents each advance along with its opportunities to improve our public obligations to children and its risks that children will be overlooked for technology and business.

A. Enhanced Audio-Visual Quality

Most of the attention surrounding DTV has concerned the leap in audio-visual ("A/V") effects, presenting a television experience unlike any before. Digital broadcasting will provide the clearest pictures with realistic sound, and will eliminate the reception problems commonly associated with analog television.²¹ Whereas previously, analog broadcasts offered a standard NTSC (National Television Systems Committee)

transition will take longer than most people in the industry will publicly admit . . . at least 10 to 12 years – or even longer. This period is much lengthier than the original timetable established by the US Congress.") [hereinafter NAB & PricewaterhouseCoopers LLP].

²⁰ See, e.g., Federal Communications Commission, *Digital Television* (description) (last modified Nov. 2, 1999) < <http://www.fcc.gov/mmb/vsd/files/descrip.html>>; Wendy Tanaka, *The DTV Industry is Growing Slowly*, Philadelphia Inquirer, Feb. 10, 2000 (page unavailable); *A Technophobe's Guide to HDTV*, Daily Variety, April 6, 1998, at A2.

screen with 4-to-3 aspect ratio and 525 lines of 720 pixels that totaled 378,000 pixels per frame, the newer digital technology can present a standard ATSC (Advanced Television Systems Committee) screen with 19-to-9 ratio and up to 1080 lines of 1920 pixels for 2,073,600 pixels per frame.²² This picture is commonly referred to as high-definition television (“HDTV”).²³ Correspondingly, the sound quality of television will also improve dramatically from mono and stereo to 5.1 Dolby Digital surround sound and the digital quality currently found in compact discs.²⁴ Thus, there is a hierarchy of A/V quality, ranging from the existing low-quality analog transmission (NCTE) to middle-quality SDTV digital transmissions to high-end HDTV. While not every broadcast in the digital era will be of the highest possible quality, all broadcasts will be of higher quality than analog transmission.²⁵ The FCC mandate requires some amount of broadcasting in a higher quality format beginning in 1998 and increasing in quantity until complete conversion.

Children Now urges the FCC to be cognizant of the opportunities and risks for children that enhanced A/V capabilities present. First, the higher A/V quality can provide children with greater educational experiences through television. For example,

²¹ See Advisory Committee Report at §I, *A Brief History of Digital Television Technology* (discussing progressive scanning, square pixels, increased frame rates additional lines per frame, different aspect ratios, and sound); Cringely & PBS, *supra*, at § *Ghosts in the Machine*.

²² Advisory Committee Report at §I, *A Brief History of Digital Television Technology*; Cringely & PBS, *supra*, at § *Bandwidth Squeeze*; Pat Denato, *Future of TV's is Here – Digital and High-Definition TVs Will Put Viewers in Control and Provide Better Sound and Quality*, *Des Moines Register*, May 17, 1999, at 16.

²³ See Allison Ballard, *The Defining Moment of Television: The Conversion to Digital TV Will Cost Networks and Consumers Big Bucks*, *Morning Star*, Feb. 17, 2000, at 1D, 3D (“One common confusion with the new technology is the terminology. Digital television is a way to transmit television. HDTV, or high-definition television, is one application of digital television.”).

²⁴ Cringely & PBS, *supra*, at § *Digital Sound*; Digital Television: The Site, *supra*, at § *What is Digital Television? Consumer Information Page*.

²⁵ FCC, *Digital Television Tower*, *supra*, at Questions 1-2 (“Standard definition digital TV pictures would be similar in clarity and detail to the best TV pictures being received and displayed today using the current (analog NTSC) broadcast system and TV receivers.”); *A Technophobe's Guide to HDTV*, *Daily Variety*, April 6, 1998, at A2.

science programs or travelling shows will be able to present people, places, and things through more realistic pictures and sounds than ever before. While it is not yet certain how DTV will ultimately impact education, it is evident that the technology will have a significant and tangible effect with regard to engaging young viewers and encouraging further learning.²⁶ These effects and other enhancements are discussed further at Part II (C-D), *infra*.

Second, broadcasters will have the ability to vary the amount and quality of their programming menu throughout the day – e.g., airing lower A/V quality SDTV multicasting during early morning hours and higher A/V quality HDTV during prime-time.²⁷ The Advisory Committee on Public Interest Obligations of Digital Television Broadcasters (hereinafter, “Advisory Committee”) noted that there are 18 possible formats in HDTV and SDTV.²⁸ While this flexibility may provide more overall quantities of programming, it also risks having a segregation effect – i.e., certain programming receiving priority for high A/V quality (e.g., sports games, prime-time shows) while other programming is relegated to low A/V quality. Higher definition programming will necessarily require higher production costs, and broadcasters will often face the usual business efficiency decisions that rely heavily on viewership ratings and

²⁶ See, e.g., Andy Carvin, *EDWEB: Exploring Technology and School Reform*, (latest revision Jan. 11, 2000) <<http://edweb.gsn.org>>, at § *DTV: Enhanced Television* <<http://edweb.gsn.org/teled98/enhancedtv.html>> (actual demonstrations of educational programs enhanced by DTV).

²⁷ See Part II.B, *infra*.

²⁸ Advisory Committee Report at §I, *A Brief History of Digital Television Technology* (citing FCC discussion that broadcasters have a variety of options and that the market will determine the ultimate decisions, in *In the Matter of Advanced Television Systems and Their Impact upon the Existing Television Broadcast Service*, MM Docket No. 87-268, *Fifth Report and Order*, *supra*, at 12826-27 [hereinafter *Fifth Report and Order*]).

advertising dollars.²⁹ Children Now urges the FCC to consider the risks and possibilities of excluding children's programming from the highest A/V quality broadcasting.

Third, the enhanced picture and sound will also mean a more realistic viewer experience with regard to images of sex and violence that may be inappropriate for young children.³⁰ Given the long-existing concerns in this area, Children Now urges the FCC to research and analyze the impact of enhanced A/V capabilities on children's consumption of such images.

Finally, more research and analysis is needed regarding the psychological and physical effects of enhanced A/V on viewers, especially children. In December, 1997, an episode of *Pokemon* that aired in Japan induced several hundred cases of photosensitive epileptic seizures.³¹ Most of these cases involved children. More recently, experts have been exploring the effects of new technologies such as virtual reality for their capacity to induce physical illness in consumers.³² As the digital conversion introduces technological advances that make home-viewing a more virtual experience, the FCC should conduct due diligence regarding its public health impact.

B. Multicasting

Unlike traditional analog broadcasting, digital broadcasting uses a binary system of 1's and 0's to transmit high quantities of data in an extraordinarily compact form. This technology is currently used in platforms such as personal computers, compact disc

²⁹ See Advisory Committee Report at §III.4.a ("The startup costs of converting to digital signals are high, and just as significantly, the costs of producing digital programming are 10 to 20 percent higher than those of comparable analog programming.").

³⁰ People for Better TV, *The Dangers of DTV*, (last visited Mar. 13, 2000) <<http://www.bettertv.org/dangers.html>>.

³¹ See *Pokemon and Epilepsy*, Washington Post, Mar. 6, 2000, at A9; Kevin Sullivan, *Japan's Cartoon Violence; TV Networks Criticized After Children's Seizures*, Washington Post, Dec. 19, 1997, at D1; Sheryl Wu Dunn, *TV Cartoon's Flashes Send 700 Japanese Into Seizures*, N.Y. Times, Dec. 18, 1997, at A3.

³² Katie Hafner, *Real Queasiness in Virtual Reality*, N.Y. Times, Nov. 19, 1998, at G1.

players, and the Internet. The benefits of such transmission through the television are manifold, such as picture perfect quality and Internet capabilities.³³

Given the compression power of digital transmission, the additional 6 MHz of bandwidth granted to broadcasters represents more than a simple 100% increase in a station's programming capacity. While the additional bandwidth can provide one channel at the highest A/V quality (i.e., HDTV), it can also sustain several simultaneous channels at lower qualities (e.g., SDTV). This ability to broadcast multiple channels is called "multicasting." Multicasting essentially allows each current broadcaster to become its own mini-network, with an inverse relationship between the quantity of channels and the A/V quality on those channels.³⁴ At present, the common perception is that the additional 6 MHz can sustain up to 4-6 channels of SDTV transmission, thereby increasing the amount of available programming exponentially.³⁵ As the technology develops, the number of possible channels may increase even more.

The power of multicasting requires broadcasters to engage in what the National Association of Broadcasters terms "bandwidth management."³⁶ As previously discussed, broadcasters will have the flexibility to vary the amount and A/V quality of programming throughout the day. For example, local broadcaster WXYZ could design a Monday menu

³³ See Cringely & PBS, *supra*, at §§ MPEG-2 (discussing the MPEG-2 compression scheme for digital transmission), *Ghosts in the Machine*. See also, Carvin & CPB, *supra* (explaining binary compression and associated benefits).

³⁴ See FCC, *Digital Television Tower*, *supra*, at Questions 2-3 ("There is a trade-off between using digital transmission capacity for improved pictures and sound and using it to transmit additional programs."); Center for Media Education, *supra* ("Initially, at least, the latter option [of SDTV multicasting] will be far more practical (given the scarcity of sets capable of displaying HDTV), which means that every local TV station will be able to control a 'mini-network' of its own."); Cringely & PBS, *supra*, at § *Multi-Casting*; Digital Television: The Site, *supra*, at § *SDTV Multicasting*.

³⁵ See, e.g., FCC, *Digital Television Tower*, *supra*, at Question 3; Cringely & PBS, *supra*, at § *Multi-Casting*; Advisory Committee Report at §I, *What is Digital Television?*

³⁶ NAB & PricewaterhouseCoopers LLP, *supra* ("As managers of bandwidth, they may adjust their broadcast product from multiple standard definition channels during the day and late night dayparts to high definition programming designed to reach a broad, mass audience during prime time.").

that airs four SDTV channels from 8 a.m. to 3 p.m., switches to two higher definition channels from 3 p.m. to 8 p.m., and finishes with one HDTV channel for prime-time and late-night programming. Then, WXYZ could change its amounts and quality for the Tuesday.³⁷ Further, WXYZ may choose to hold a special pay-per-view HDTV broadcast for a sporting event, in lieu of its scheduled multicast segment. In any case, digital technology and the bandwidth giveaway have granted broadcasters an enormous amount of power and flexibility, and they must manage the station schedule for optimal performance.

This model of variability raises several serious concerns for children's E/I programming. In addition to the A/V quality concerns raised in Part II.A, *supra*, the overall amount and weekly proportion of children's programming may be threatened. Multicasting capability de-standardizes the amount of programming across broadcasters. Whereas previously there was a relatively constant set of programmable hours for each broadcaster, the new digital regime will host myriad combinations and permutations of hours and A/V quality. Every broadcaster in America can and probably will provide a different combination with different overall hours and quality.³⁸ Thus the previous hard-fought rule for three hours of Educational/Informational children's programming per week may suffer drastically – what was previously three hours of E/I programming per 105 hours of effective weekly broadcasting³⁹ may become three hours per 1000 hours.

³⁷ Advisory Committee Report at §I, *What is Digital Television?* (“Within a single programming day, a broadcaster will have the flexibility to shift back and forth between different DTV modes in different day parts.”).

³⁸ See NAB & PricewaterhouseCoopers LLP, *supra* (“One new benefit of the digital format is the ability to apply compression and vary the mix of digital content, broadcasting one program in high definition (HDTV) or several in standard definition (SDTV). Broadcasters will have a broad range of channel options in their business mix.”). These variations in quality are explored in more detail at Part II (C-D), *infra*.

³⁹ Currently, children's E/I programming must air between 7 a.m. and 10 p.m. which is a 15-hour period for each day. Seven days of 15 programmable hours totals 105 hours per week.

As the Advisory Committee notes, “Applying existing public interest obligations to this variegated universe will not be easy, *and will certainly not entail a simple one-for-one exchange.*”⁴⁰ Given these risks, Children Now believes that it is of utmost importance for the FCC to examine the public interest obligations under the Children’s Television Act, especially the Three-Hour Rule, as they will apply to the digital era. We provide a set of recommendations addressing this requirement at Part IV, *infra*.

C. Multiplexing – Ancillary & Supplementary Services

The FCC *Notice* and the Telecommunications Act of 1996 characterize DTV services such as datacasting, paging, and interactivity as “ancillary and supplementary.”⁴¹ These services may be offered by themselves or in conjunction with broadcast programming, and broadcasters will manage their bandwidth distribution accordingly. The transmittal of DTV programming and ancillary and supplementary services at the same time is termed “multiplexing.”⁴²

DTV’s ancillary and supplementary services are closely related to the futurist concept of “convergence,” whereby the many discrete pieces of technical hardware in use today – such as personal computers, Internet, video gaming consoles, fax/modems, broadcast radio and television, cellular communications, cable – will merge into one platform.⁴³ Convergence raises several new policy concerns with respect to children, many of which have been previously addressed separately within their respective media

⁴⁰ Advisory Committee Report at §III.10 (emphasis added).

⁴¹ *Notice* at ¶13 (“... services other than free, over-the-air services.”); *Fifth Report and Order, supra*, at 12821, ¶30; Advisory Committee Report at §I, *What is Digital Television?*

⁴² *Notice* at ¶10; *Fifth Report and Order, supra*, at 12826, ¶42. See Carvin & CPB, *supra* (“The last – and perhaps most important – difference with digital and analog TV is that DTV will allow you to combine TV signals with other types of digital content.”). Note that broadcasters who transmit multiple programming channels and ancillary and supplementary services at the same time, are multicasting *and* multiplexing.

(e.g., Children's Television Act for television, Children's Online Privacy Protection Act for Internet marketing, parental advisory labels for music). Technological advances toward convergence will necessarily expedite the need and timeline for solutions and applications.⁴⁴ While Children Now urges the FCC to look to those discrete policy solutions for guidance, we also recognize the need to explore new solutions specific to convergence and DTV.

Although the full capacity of ancillary and supplementary services has not been determined, commentators are clearly aware of their enormous potential and opportunities.⁴⁵ Digital technology is currently utilized in personal computers and on the Internet to provide large amounts of data and to interact with users. DTV broadcasters have the capacity to use a portion of their 6 MHz bandwidth to provide similar services, currently characterized broadly as "datacasting" and "interactivity."

Datacasting is providing data via the DTV bitstream.⁴⁶ Any information that can be coded in the binary scheme of 1's and 0's can be transmitted, such as stock quotes, product prices, computer software, closed captioning, database content, weather animation, sports scores, Internet content, interactive educational material, multimedia

⁴³ See Advisory Committee Report at §I, *What is Digital Television?*; Cringely & PBS, *supra*, at § *What's on the TV?* ("The convergence of television and computers is going to take a major step with digital broadcasts.").

⁴⁴ For example, commentators have noted that the issues of violence, pornography, and privacy on the Internet are affecting increasingly larger populations. See, e.g., Paul Van Slambrouck, *New Computer Chip: Useful Tool or Privacy Invasion?*, *The Christian Science Monitor*, Feb. 16, 1999, at 2. If DTV and its convergence narrow the Digital Divide by lowering the entry price points for Internet connection, then those issues affect a far greater population than before and become much more urgent.

⁴⁵ See Cringely & PBS, *supra*, at § *I Want My Enhanced TV* ("Nobody really knows how we'll interact with our televisions in the next few years, but TV is never going to be the same."); NAB & PricewaterhouseCoopers LLP, *supra* ("The concept of data broadcasting is still in its infancy; however, there are a number of entrepreneurial companies ready to exploit the business opportunities offered by a true point-to-multipoint data push model," and "The prevailing DTV Format will be an HDTV Multicasting hybrid – but the Killer App will be datacasting combined with two-way interactivity.").

⁴⁶ Notice at ¶3.

games, or illustrated articles.⁴⁷ Selecting personalized data will be a function of user interaction with the television. User interactivity through the television has been attempted previously with costly external network connections, but digital television will “embed interactivity inside the broadcast signal,” resulting in low costs.⁴⁸ Viewers will be able to communicate with the television and with others through the television, creating a more personalized and potentially educational experience.⁴⁹

DTV datacasting and interactivity offer significant opportunities and risks for children. Many digital commentators have envisioned how DTV enhancements may improve television viewing, including programming for children. For example, viewers watching a documentary on dinosaurs could download additional information on certain species or the biography of a scientist on the program.⁵⁰ The PBS website describes possibilities such as watching a lifelike documentary on National Parks in Africa with “amazing clarity” and 5.1 channel sound, followed by personalized news programming that presents your stocks, weather, sports scores, and interest pieces, followed by E/I programming where, “You and your kids play some learning games with Big Bird, replay the sing-along a few times, and then print out a picture for coloring together. Your kids

⁴⁷ See Advisory Committee Report at §§I, *What is Digital Television?* (“... digital code, which is increasingly becoming the common language for all electronic media.”), III.4(c); Cringely & PBS, *supra*, at § I *I Want My Enhanced TV*; FCC, *Digital Television Tower*, *supra*, at Question 2; People for Better TV, *The Potential Benefits of DTV*, *supra*. Current television programs that approximate this multiplexing vision include financial shows with the NYSE ticker tape and MTV’s *Total Request Live* with e-mail input from viewers.

⁴⁸ Cringely & PBS, *supra*, at § *The Experiments* (describing experiments in the 1980s conducted by TCI and Time Warner, where subscribers could “shop online, play games with people across town, and do a lot of the things we dreamed an interactive TV should offer.”).

⁴⁹ *But see*, Carvin & CPB, *supra* (describing possible limits with DTV interactivity due to lack of a back channel similar in quality to DTV broadcast; in the interim, Carvin predicts that the Internet will be the user upstream channel and will provide some interactivity, albeit at slower rates than incoming data). *See also*, Advisory Committee Report at §III.4.c (discussing important interactive aspects that combines television broadcasting and the Internet).

⁵⁰ Ballard, *supra*, at 3D.

are learning by doing.”⁵¹ People for Better TV conjectures that DTV may make it possible for “a child in West Virginia to talk to an astronaut aboard a space station.”⁵² Benton Foundation DTV pundit Andy Carvin, formerly of the Corporation for Public Broadcasting, presents detailed examples and actual experiments of enhanced TV applied to education, from PBS documentaries on Henry V and Frank Lloyd Wright supplemented by multimedia content, to a NOVA special where children can construct virtual Stonehenges or pyramids, to a Great Performances program where children can isolate instruments and rearrange music.⁵³ Carvin also identifies the possibilities for teacher professional development through DTV.⁵⁴ Through technological advancements, DTV can expand greatly the educational mission of public television.⁵⁵

Another pivotal opportunity lies in DTV’s ability to affect the Digital Divide.⁵⁶ While the majority of Americans do not currently have Internet connectivity at home, most Americans do have television set. Because DTV can broadcast websites and other multimedia content without high-speed Internet connectivity, DTV is able to bring the Internet to millions of people at home or in institutions such as schools, through the purchase of DTV tuner PC cards, set-top boxes, or digital televisions.⁵⁷ However, the Digital Divide cannot be overcome unilaterally. Although the content provider end of Internet services will be able to send digital data through free broadcast airwaves, end-users still require new hardware to receive. The actual closure of the divide will depend

⁵¹ Cringely & PBS, *supra*, at § *The Many Faces of HDTV*.

⁵² People for Better TV, *The Potential Benefits of DTV*, (last visited Mar. 13, 2000) <<http://www.bettertv.org/benefits.html>>.

⁵³ Carvin & CPB, *supra*.

⁵⁴ *Id.*

⁵⁵ Ballard, *supra*, at 3D.

⁵⁶ For more information regarding the Digital Divide, *see generally*, The Digital Divide Network, (last visited March 23, 2000), <<http://www.DigitalDivideNetwork.org>>.

⁵⁷ Carvin & CPB, *supra*.

on the price points for conversion (i.e., whether it will be financially accessible to a greater population) and overcoming relevant biases.⁵⁸ Nonetheless, as the government and broadcasting industry urge convergence on the DTV platform, a massive conversion may result simply because current television owners will not forego their basic television services as they currently forego the Internet. The externality of making people buy digital televisions to get basic television would be closing the current Internet divide. In any case, DTV's actual effect on the Digital Divide remains to be determined as technology, market economics, politics, and policy continue to develop.

Exclusion from enhancement, personalized commercialization, and invasions of privacy are some of the primary risks for children regarding datacasting and interactivity services. Just as DTV has the opportunity to enhance children's education and close the Digital Divide, there is the converse risk that children's programming will be excluded from higher-end services and that lower-income populations will not receive DTV. Further, as DTV becomes interactive and personalized, companies will collect more information about viewers and can customize integrated advertising and direct marketing within programming. Just as today's Internet marketers can track user movements and purchases, convergence will enable marketers to monitor viewer's program choices and behavior with enhanced information-gathering techniques. This will result in commercials that can address the viewer – especially children – directly and intimately,

⁵⁸ Advisory Committee Report at §I, *Consumer Demand for DTV*. For price point concerns, see, e.g., Joel Brinkley, *HDTV: High in Definition, High in Price*, N.Y. Times, August 20, 1998, at G1; *A Technophobe's Guide to HDTV*, Daily Variety, April 6, 1998, at A2 (describing digital television priced from \$7,000 to \$10,000, and lower quality converter boxes at approximately \$100). For relevant biases, see, e.g., J. Raloff, *Internet Access: A Black-and-White Issue*, Science News, Apr. 18, 1998, at 247.

aggressively urging purchases.⁵⁹ Children Now addresses these risks at Part IV.B(3), *infra*.

Children Now urges the FCC to consider the opportunities for fuller and richer children's education through the affirmative allocation of bandwidth to datacasting and interactivity to children's programming. We also urge the FCC to consider the risks associated with possible exclusion from ancillary and supplementary services, and with personalized commercialization and advertising to young people. Finally, Children Now urges the FCC to monitor the actual effects of the DTV convergence on the current Digital Divide.

D. Digital Viewer Experience Quality (DVEQ) & Bandwidth Management

The upshot of these technological advances is that broadcasters will have a limited amount of bandwidth, but exponentially more power and flexibility than ever before. Technology has made the capacity of the 6 MHz bandwidth seemingly limitless. In the digital era, broadcasters have the phenomenal ability to vary the viewer's experience by allocating A/V quality, datacasting, interactive components, and multiple programming hours, in any combination or permutation that they wish. Overall bandwidth management will be more than simply channels and A/V quality.⁶⁰

Throughout the pre-digital era, the public television viewing experience was mostly standard from channel to channel. Each broadcaster had an identical finite amount of programming hours per week and all broadcasts had the same analog A/V

⁵⁹ People for Better TV, *The Dangers of DTV*, (last visited Mar. 13, 2000) <<http://www.bettertv.org/dangers.html>>; Center for Media Education, *supra*.

⁶⁰ See Carvin & CPB, *supra* ("There's no one single rule for utilizing DTV spectrum – broadcasters will have to figure out for themselves what method is best for them. But there are so many options: if you can take content and convert it to 1's and 0's, you'll be able to send that content through the DTV signal. It's just a matter of figuring out what kinds of content you'd want to transmit.").

quality. With DTV, the experience can range from a program similar to yesterday's analog broadcast to an 16:9, high-definition, multi-casting, surround-sound program enhanced with streaming datacast and interactive participation.⁶¹ To quantify this range, Children Now introduces a variable entitled *Digital Viewer Experience Quality (DVEQ)* that refers to the different types of experiences that are now possible with DTV.

The primary concern with DVEQ and children is the exact same concern we have identified regarding multicasting, multiplexing, and the inverse relationship between quality and quantity – *Will children's programming become segregated at the low end of the quality spectrum?* Given the higher production costs associated with HDTV, datacasting, and interactivity, how much E/I programming will be broadcast in low-definition with nothing else? Will children's E/I programming be afforded the important opportunity to participate in advanced technology for expanded learning experiences, or will those technologies be designated exclusively for high profit margin ventures such as sporting events and pay-per-view events? Children Now urges the FCC to further consider these concerns regarding exclusion in its rule-making process.

III. THE CHILDREN'S TELEVISION ACT

A. Background

Since the 1960's, children's advocates have urged the FCC to protect the public interest of children by mandating a minimum level of educational children's programming. Since then, an ongoing debate has ensued among broadcasters, Congress,

⁶¹ Advisory Committee Report at §I, *What is Digital Television?* ("Because different gradations of HDTV and SDTV picture resolution are possible – there are 18 different transmission formats – a station can mix and match video programming with data services, provided that the various signals fit within the 6 MHz bandwidth."); Cringely & PBS, *supra*, at § *The Many Facts of HDTV*.

the FCC, advocates, and parents about minimal standards for children's educational programming and how such standards should be defined.⁶²

Thirty years of debate about commercial broadcasters' obligation to air children's educational programming demonstrate one certainty. Without stringent requirements mandated by the FCC, broadcasters do not voluntarily serve the needs of children. Self-regulation is not an option to ensure the protection of children's public interest. As the FCC considers policy recommendations for the application of the Children's Television Act in the digital arena, Children Now urges the mandating of specific guidelines. The history of the Children's Television Act demonstrates that, for the most part, unless faced with external pressure, the commercial broadcast industry has largely neglected children's educational programming.⁶³

During the 1970s, the FCC did not mandate specific policy on children's educational television requirements. In 1971, the FCC did initiate a rulemaking on children's television, which yielded voluntary changes in the National Association of Broadcasters' code two years later.⁶⁴ The NAB agreed to: 1) make clear distinctions between children's programs and commercials; 2) prohibit the practice of host-selling; 3) ban ads for drugs and vitamins during children's shows; and 4) proposed self-regulated limits for commercials of 9 minutes per hour on weekdays and 12 minutes per hour on weekends.⁶⁵ These limits, according to the FCC, "struck a balance between the needs of children, who were judged uniquely susceptible to commercial influence, and the needs

⁶² Mark R. Barner, *Sex-Role Stereotyping in FCC-Mandated Children's Educational Television*, 43 *Journal of Broadcasting and Electronic Media*. 551 (1999).

⁶³ Dale Kunkel, *Policy and the Future of Children's Television in Children & Television: Images In A Changing Sociocultural World* 273, 276 (Gordon L. Berry et al eds., 1993) [hereinafter Kunkel and Children & Television].

⁶⁴ Advisory Committee Report at §II, *The Public Interest in Children's Educational Programming*.

⁶⁵ *Id.*

of broadcasters, who were dependent upon advertising revenue to maintain the children's program offerings."⁶⁶ Thus, instead of mandating rules, the FCC issued a *1974 Policy Statement* noting that "broadcasters have a special obligation to serve children"⁶⁷ and asked stations to provide a "reasonable amount"⁶⁸ of educational programming.

By the late 1970s, the FCC determined that broadcasters' self-regulation was not working, and, in its 1979 *Children's Television Report*, offered more prescriptive rules.⁶⁹ These rules, however, were never implemented as new commissioners came to Washington in the 1980s. In 1984, led by Commissioner Mark Fowler, the FCC determined that the marketplace alone could adequately respond to children's needs.⁷⁰ Commercial broadcasters no longer had to air educational programming as long as children's needs could be served by other services such as public television, cable, satellite, and videos.

This new policy resulted in a notable decline in children's educational programming, and several studies documented this dramatic decrease.⁷¹ One study, for example, showed that commercial broadcasters did not provide a single children's educational show during a sample week in the greater Los Angeles area.⁷² According to Professor Dale Kunkel at the University of California at Santa Barbara, "Even the relatively small amount of educational programs that had been provided previously on

⁶⁶ Dale Kunkel and Don Roberts, et al. in Mary C. Martin, *Children's Understanding of the Intent of Advertising: A Meta-Analysis*, 16, JOURNAL OF PUBLIC POLICY & MARKETING 205 (1997).

⁶⁷ Benton Foundation, *The Public Interest Standard in Television Broadcasting*, (last modified Jan. 19, 1999) < <http://www.benton.org/PIAC/sec2> >.

⁶⁸ Kunkel and Children & Television, *supra*, at 276.

⁶⁹ Advisory Committee Report at §II, *The Public Interest in Children's Educational Programming*.

⁷⁰ *Id.*

⁷¹ Kunkel and Children & Television, *supra*, at 277.

⁷² *Id.*

commercial television essentially disappeared once the FCC deregulated kids' television."⁷³

During the 1980s, the FCC also ruled that the market place should determine how much commercial content could be included in children's programming. The FCC therefore dropped the limits on the amount of advertising in children's television and relinquished the previously-established ban on "program-length commercials," 30-minute, toy-based programs. Subsequently, advertising on children's programming increased considerably; a study found that children's advertising on the networks in 1990 averaged 10:05 minutes per hour compared to eight minutes in 1983.⁷⁴ Similarly, there was a tremendous increase in "program-length commercials;" for example, profits from the sale of licensed products based on the program, *Teenage Mutant Ninja Turtles*, yielded \$1.1 billion by 1991.⁷⁵

B. The Children's Television Act of 1990

Throughout the 1980s, it became increasingly evident that the FCC could not rely on broadcasters' self-regulation to meet the educational needs of children. Thus, in 1990, Congress passed the Children's Television Act (CTA) which marked a new era for television broadcasters. Under the CTA, "as part of their obligation to serve the public interest, television station operators and licensees should provide programming that serves the special needs of children."⁷⁶ The Children's Television Act also limited advertising during children's programs to 12 minutes per hour on weekdays, 10.5 minutes

⁷³ *Id.*

⁷⁴ Dale Kunkel & Walter Gantz, *Children's Television Advertising in the Multichannel Environment*, 42 J. Comm. 134, 143-144, 147 (1992).

⁷⁵ Kunkel and Children & Television, *supra*, at 278.

⁷⁶ Children's Television Act of 1990, Pub. L. No. 101-437, 104 Stat. 996-1000 codified at 47 U.S.C. §101. [hereinafter Children's Television Act of 1990].

per hour on weekends. Finally, the Act mandated that the FCC revisit and re-examine its policy on children's program-length commercials.⁷⁷

In subsequent years, the broad coalition of groups that helped ensure the passage of the CTA – including Action for Children's Television, the National PTA, the National Education Association, and the American Academy of Pediatrics – was often disappointed with how the Act was being implemented. Because there were no specific mandates about quantity of programming, broadcasters aired as little as 30 minutes of educational programs a week. In addition, many programs that stations deemed "FCC-friendly" were "scheduled in pre-dawn time slots when few people were likely to be watching"⁷⁸ or were often preempted by Saturday sports programming. Finally, without qualitative guidelines on what constitutes "educational and informational programming," many networks documented shows such as *The Jetsons* and *Leave It to Beaver* as educational.

Yet when it came to the quantifiable commercial time limits for children's programming, broadcasters made considerable strides in complying with the Act. According to a November 1993 FCC study, 98 percent of stations showed compliance with the commercial limits, up from 95 percent in 1992.⁷⁹ Thus, it appears that setting specific quantifiable requirements under the Children's Television Act is helpful, and arguably essential, in garnering broadcasters' compliance.

⁷⁷ Children's Television Act of 1990, *supra*, §303a ("Except as provided in subsection (c) of this section, the standards prescribed under subsection (a) of this section shall include the requirement that each commercial television broadcast licensee shall limit the duration of advertising in children's television programming to not more than 10.5 minutes per hour on weekends and not more than 12 minute per hour on weekdays.").

⁷⁸ Center for Media Education, *A Field Guide to the Children's Television Act*, (visited Feb 29, 00) <<http://www.cme.org/ctatool/fguide.html>>.

⁷⁹ Christopher Stern, *98% of Stations Under Limit On Kids Ads; FCC Survey on Commercial Time Limit Compliance*, 124 *Broadcasting and Cable* 65 (March 28, 1994).

C. The Children's Television Act—More Stringent Rules

In 1996, the Federal Communications Commission revised the CTA to address the concerns of advocates and parents, by providing more stringent and specific quantifiable rules for children's educational programming. The FCC guidelines require that core programming be designed to educate and inform children ages 16 and under.⁸⁰ Under the FCC's new guidelines, broadcasters are required to: 1) broadcast a minimum of three hours per week of educational and informational television for children; 2) specify in writing the educational and informational objective of a program, as well as its target child audience; 3) air programs between the hours of 7:00am and 10:00pm; 4) ensure that broadcasts are regularly scheduled to assist parents in selecting educational programs for their children; 5) broadcast programs that are at least 30 minutes in length; and 6) identify "E/I" programs (for educational and informational) at the beginning of each program.⁸¹

D. The Three-Hour Rule: Is It Living Up To Its Expectations?

In September 1997, the Three-Hour Rule went into effect, and several improvements to children's programming have been documented. The Annenberg Public Policy Center at the University of Pennsylvania issues an annual report on broadcasters' compliance with the Children's Television Act. The most recent study, *The Three-Hour Rule: Is it Living Up to Expectations?* examined the quantity and quality of broadcasters' second year efforts (1998-99 TV season) at compliance, and found that commercial

⁸⁰ Policies and Rules Concerning Children's Television Programming, Revision, Revision of Programming Policies for Television Broadcast Stations, MM Docket No. 93-48, *Report and Order*, 11 FCC Rcd 10660 (1996) at §IV.84 [hereinafter Policies and Rules Concerning Children's Television Programming, 1996]. ("Accordingly, as proposed in the NPRM, we will require that core programming be specifically designed to meet the educational and informational needs of children ages 16 and under and have educating and informing children as its significant purpose.")

⁸¹ Policies and Rules Concerning Children's Television Programming, 1996, *supra*, at §I(3-5).

broadcasters *are* airing the required three hours of educational programming.⁸² The report found that the Three-Hour Rule has effectively increased the number of programs available to children during hours when they are likely to watch. In addition, 60% of stations offer more than the three-hour minimum of core educational programming. Whereas before the Three-Hour Rule's implementation many of the E/I (educational/informational) programs were aired in pre-dawn hours, the 1998/99 TV season's programs can be found between the hours of 7:00am and 10:00pm.

The report also found that approximately 80% of the E/I programs evaluated in a nationally representative media market are meeting the letter and sometimes the spirit of the law. One third of these programs are even highly educational. The "highly educational" programs come from a variety of sources, including: programs that originally aired on PBS (such as *Magic School Bus*, *Bill Nye*, *The Science Guy* and *New Zoo Revue*); those developed as a result of the Three-Hour Rule (such as *Pepper Ann*, *Popular Mechanics for Kids* and *Brain Stew*); locally-produced programs (such as *UP 'N Running* and *HyperTek*); Spanish language programs (*Pistas de Blue* and *Plaza Sesamo*); religious programs (*Al Denson's Studio 828* and *Quigley's Village*) and those airing in syndication (*Real Life 101* and *Nick News*). These programs tackle a variety of lessons and audiences and are particularly effective at making these lessons relevant to the lives of children.

While they note these and other improvements, the Annenberg reports also show that there is still a need to monitor the progress of the CTA. For instance, over one-fifth of the programs labeled educational and informational in their sample had "little or no

⁸² Kelly L. Schmidt, The Annenberg Public Policy Center of the University of Pennsylvania, *The Three-Hour Rule: Is It Living Up To Expectations?* (1999).

educational value and failed to meet the guidelines set forth by the FCC.”⁸³ While these shows do not deserve the E/I label, they continue to air on commercial broadcast stations (programs such as *NBA Inside Stuff* and *Peer Pressure* have aired in two consecutive TV seasons without any noticeable improvement).

There also still appears to be some confusion at the station level about what constitutes E/I programming. There were several questionable programs identified on the FCC 398 reports that were not validated by the syndicator or network contact; however there is less variation in the way that broadcasters are complying with the children’s television act under the Three-Hour Rule.

The report found that while broadcasters are complying with the Three-Hour Rule, and making an effort to meet the educational needs of children, their efforts warrant improvement. There are still too many programs airing that are not educational and too few highly educational programs available.

E. The Three-Hour Rule: Insiders’ Reactions

In order to evaluate fully the Three-Hour Rule, the Annenberg Public Policy Center also conducted a poll of television industry executives, academics, and advocates.⁸⁴ Most noted an improvement in children’s educational programming, citing more diversity in type of programming, and an increased quantity and quality of shows. Respondents noted that violent and offensive shows disappeared, and the number of programs devoid of educational content decreased by 50 percent. They also reported that

⁸³ Schmidt, *supra*, at 3.

⁸⁴ See Amy B. Jordan, The Annenberg Public Policy Center of the University of Pennsylvania, *The Three-Hour Rule: Insiders’ Reactions* (1999).

the rule resulted in an increased dialogue between “the broadcast industry and the scholarly and academic communities.”⁸⁵

Despite the improvements, more than half of the respondents felt that the educational objectives of the rule were not being fully realized. They found that while children’s programming was less objectionable after implementation of the rule, it nevertheless could not be deemed truly educational, noting that a majority of the programming address social and emotional concerns rather than teaching academic concepts. To address this concern, respondents recommended that broadcasters:

- 1) diversify all aspects of the programs;
- 2) increase promotion and media coverage of children’s programming;
- 3) establish funding sources for new educational programs;
- 4) provide more research to create efficient educational programs that appeal to children;
- 5) create a national public information campaign about educational programming.

F. Local Observations Relevant to the Children’s Television Act

Over the last several months, the broad coalition of organizations known as People for a Better TV (PBTv) have assessed compliance of their local television stations with the guidelines of the CTA by recording children’s programs and examining the public files at their local stations. Comments and observations about local stations’ commitment to children’s programming centered mostly on station compliance with the three-hour requirement and critiques of the types of programs offered to children.

⁸⁵ Jordan, *supra*, at 4.

Overall, local organizations across the country found that most stations comply with the *minimum* required hours with most stations airing only three to four hours of educational programming.⁸⁶ For example, the California chapter of the National Organization for Women stated that KRON, the NBC affiliate in San Francisco, makes, “ONLY the minimal commitment to children’s programming [with] 3 to 3.5 hours per week [and] no programs during the week.” Children Now noted that KPIX, the CBS affiliate in San Francisco, aired less than their self-reported three hours, as their children’s programming was preempted by sports.

Other stations across the country were also shown to have only minimum compliance. The Massachusetts-based Center for Technology & Society evaluated the CBS affiliate in Boston, WBZ, and noted they aired exactly three hours of children’s programming, a drop from 1997 when they aired 6 hours. A Detroit station, WXYZ (ABC) fared slightly better than Boston’s WBZ, with four hours of children’s programming.

While stations claim to be airing three hours a week of E/I programming, they are not consistently labeling shows as such. Many of these programs came up repeatedly in the evaluations including *Pepper Ann*, *Squigglevision*, *Popular Mechanics for Kids*, *Sabrina the Animated Series*, and *Mythic Warriors*. The Christian Communication Council of Detroit observed that some of these programs were identified “specifically to educate and inform children,” thus complying with the “E/I” label requirement, while others were simply identified “for children of all ages.” Children Now noticed similar inconsistency in the programs that they monitored. Three of the four stations reviewed

⁸⁶ The ABC affiliate in Houston, KTRK, aired 4.5 hours of educational programming. The Fox and ABC affiliates in San Francisco, aired 8 hours and 5.5 hours of children’s programming respectively.

had the E/I logo and only two listed the target age group for which the program was designed.

In addition to the inconsistency in identifying E/I programming, there was a perception that programs were not labeled in a way that is convenient for parents. Jim Jones of Child Serve noted the difficulty of planning ahead because most newspapers do not carry the E/I logo and he wrote, “you must be quick and on time to find the designation as the show begins because the ‘E/I’ logo appears only briefly on screen.”

Some organizations questioned the true educational value of programs that were labeled as E/I shows. In a review of WABC’s public files in New York City, the characterization of *101 Dalmatians* and *Sabrina* as E/I programming was deemed “questionable.” Similarly, Children Now noted that at the San Francisco ABC affiliate, KGO, “only two out of five programs [had] a clearly educational intent.” Other organizations remarked on the perceived leniency of labeling programs as educational or informational. For instance, NYU graduate students who visited the public files of the Fox affiliate in New York City said, “Of particular interest in the children’s/educational-programming files are these TV shows listed as ‘programming of interest to children’: *Beverly Hills 90210*, *Party of Five*, and *The Simpsons*.” Child Serve’s Jim Jones notes, “I fail to see how some of these shows can be deemed educational or informational. ... The majority of the shows teach children that it is vital to be cool, outsiders will always be treated poorly and although being yourself is very important, you better be good looking, good at sports or well-dressed because brains still work against you.” The Center for Technology & Society summed up these concerns by saying, “A clever writer could take almost any program on television and laud about its ability to, say, ‘improve social

skills.” They continued by saying their organization “would like to see clear evidence that professionals involved with children’s learning such as librarians, education faculty, and communications faculty are examining and shaping these few shows for their positive effect on children.”

G. Mandating Rules in a New Digital Era

Broadcasting is a business; it would be naive to ignore the fundamental role of the bottom line for broadcasters. Indeed, the history of the Children’s Television Act demonstrates that, when left to regulate themselves, broadcasters will not choose a public interest obligation to our nation’s children over advertising revenues. Even those broadcasters whose personal philosophies might dictate “doing the right thing,” are operating in an intensively competitive sphere. When left to self-regulation, acting on honorable intentions carries too great a business risk for the great majority of those in the industry.

As the Annenberg studies and People for Better TV’s local observations demonstrate, while broadcasters currently are generally complying with the Children’s Television Act, there is still room for considerable improvement. Stringent, quantifiable rules continue to be necessary to ensure that broadcasters meet children’s educational needs. As television moves from an analog to a digital system, Children Now urges the FCC not to rely once again on self-regulation and “good faith” from the broadcasting industry. Rather, fair regulations, defined and enforced by the FCC, can ensure that broadcasters meet their obligation to children in this new digital age.

IV. ANALYSES & RECOMMENDATIONS

Children Now proposes the following recommendations with the hope that public interest service in broadcasting will be continued and enhanced. For all these recommendations, Children Now also advises that the FCC consider careful phasing-in and implementation of standards and obligations over the period of time for transition and conversion from analog to digital.⁸⁷ Each recommendation should have built-in periodic reconsideration, particularly for technological advances, market responses, and any other factors that may impact the overall effectiveness of a recommendation.

A. Minimum Public Interest Obligations Should Be Specific

Along with People for Better TV, members of the Advisory Committee, the Media Access Project, and the Benton Foundation, Children Now believes that minimum public interest standards and obligations must be specific and detailed in order to give them meaning and effect.⁸⁸ Moreover, the conversion to digital is an unprecedented, complex process and necessarily requires specific guidelines during the transition period and afterwards. These requirements and guidelines should be communicated clearly to broadcasters during the license renewal process to ensure compliance and to ease any broadcasters' concerns regarding their status. Children Now supports the Advisory Committee's recommendation of five categories for minimum standards, in addition to the specific recommendations contained in these comments.⁸⁹ Compliance would be facilitated through quarterly reporting as detailed in Part IV.C, *infra*.

⁸⁷ Advisory Committee Report at §III.3 (“Any set of minimum standards should be drafted by the FCC in close conjunction with broadcasters and representatives of the public, and *phased in* over several years beginning with stations’ transmission of digital signals.” (emphasis added)).

⁸⁸ *Id.*; Notice at ¶21 n.68.

⁸⁹ Advisory Committee Report at §III.3.

B. Serving the Nation's Children

The following recommendations are particular to the FCC's request regarding how to serve nation's children. (*Notice* at ¶12).

1. The Children's Television Act in Digital

Children Now urges the FCC to maintain and enforce *all* of the current requirements of the Children's Television Act in the digital era.⁹⁰ In addition to complying with a proportional Three-Hour Rule described below, broadcasters still must be required to: 1) specify in writing the educational and informational objective of a program, as well as its target child audience; 2) air programs between the hours of 7:00am and 10:00pm; 3) ensure that broadcasts are regularly scheduled to assist parents in selecting educational programs for their children; 4) broadcast programs that are at least 30 minutes in length; and 5) identify "E/I" programs at the beginning of each program.⁹¹ Again, as evidenced from the history of the Children's Television Act, if the FCC does not explicitly state and enforce these rules, broadcasters will not voluntarily meet the educational and informational needs of children in the new digital era.

However, Children Now also recognizes that the digital television landscape is complex, creating difficulties in applying directly the current public interest obligations regarding children. As the Advisory Committee noted,

Analog broadcasters send one signal, usually 24 hours a day. Digital broadcasters may send one or multiple signals, at many different time periods throughout the day. Some of these signals may be programs; others may involve data transmissions or other broadband and telecommunications services. The vast new range of choices inherent in digital television technology makes it impossible to transfer summarily existing public interest obligations to digital television broadcasting. A key mandate for the Advisory

⁹⁰ See *Notice* at ¶4, citing *Fifth Report and Order, supra*, at 12809, 12810-12811, 12830 (1997) ("Likewise, in implementing section 336, the Commission reaffirmed that 'digital broadcasters remain public trustees with a responsibility to serve the public interest,' and state that 'existing public interest requirements continue to apply to all broadcast licensees.'"); *Fifth Report and Order, supra*, at 12830, ¶50.

⁹¹ *Policies and Rules Concerning Children's Television Programming, 1996, supra*, at §I (3-5).

Committee, therefore, has been to suggest how traditional principles of public-interest performance should be applied in the digital era.⁹²

Thus, Children Now recommends that the FCC apply the current Children's Television Act and corresponding FCC rules to digital broadcasters in the following manner:

**a. The Digital Three-Hour Rule for E/I Programming:
Proportional Hours Requirement**

As the Advisory Committee accurately notes, “. . . if broadcasters decide to use their digital real estate for multiple commercial channels (whether or not they are high definition), each generating its own revenue stream, then it is appropriate to consider whether the public interest requires *a different formula*.”⁹³ With respect to multicasting, this argument for reconsideration of particular public interest formulas is strengthened by the fact that although the FCC assesses fees from digital broadcasters who get paid for ancillary or supplementary services, the multicasting feature is free of charge.⁹⁴

First, each digital broadcaster should provide an amount of weekly E/I programming that is *proportional* to the three hours per week requirement currently administered under the Children's Television Act of 1990. This rule transfers the current Three-Hour Rule to digital in a fair and commensurable way, accounting for the increased amount of programming possible through multicasting. Unlike a flat hour rule, it does not penalize broadcasters who choose to program fewer hours than their colleagues. Thus, the obligation of digital broadcasters *is effectively the same as it was during the analog era*.

⁹² Advisory Committee Report at §III.

⁹³ Advisory Committee Report at §III.5 (emphasis added).

⁹⁴ *Id.*

Children Now recommends an application of the traditional Three-Hour Rule that becomes *the Three-Percent Rule*. First, we establish a baseline proportion of three hours per one-hundred and five (105) programmable broadcast hours per week – premised on the current 15 hours per day (between 7 a.m. and 10 p.m.) window for E/I programming for seven days per week. This provides a simple and realistic percentage to apply to expanded hours in the digital era – 3/105 or approximately 3% for administrative simplicity. Once broadcasters have calculated their total digital broadcast hours per week, they should multiple that total by 3% and round up to the closest five-tenths (i.e., 0.5) since half-hour segments are the smallest unit for programming. This will yield a preliminary E/I hours requirement, subject to adjustment by the proportional DVEQ process detailed in Part IV.B(1)(b), *infra*. Children Now has provided a sample case study worksheet in Appendix A.

Broadcasters are currently required to file quarterly reports that detail meeting their E/I requirements, and this calculation and evaluation process will follow the same schedule in the digital era. The amounts and figures required for the Digital Three-Hour Rule will be reported in the quarterly filings, and will determine the broadcaster's E/I requirements for the following quarter. The sample worksheet in Appendix A functions similarly to the disclosure worksheet proposed by the Advisory Committee – it is a simple and minimally burdensome method to assure the public and broadcasters that public interest obligations are being fulfilled.

**b. The Digital DVEQ Rule for E/I Programming:
Proportional DVEQ Requirement**

Second, the rules should also protect against segregation of E/I programming into the lowest DVEQ as determined by A/V quality and multiplexing (e.g., datacasting and

interactive participation). E/I programming must partake of the technological advances in the same proportion that a broadcaster chooses to use them overall. Children Now recommends that with each quarterly report, broadcasters must file a calculation of how their programming hours, *apart from E/I programming*, is distributed with respect to DVEQ (e.g., How many hours are broadcast in HDTV with streaming datacast? How many hours are broadcast in SDTV as part of a four-channel multicast with no multiplexing? How many hours are broadcast in each of the 18 possible formats?). Once this overall DVEQ distribution is computed, broadcasters must apportion their required E/I programming hours accordingly. All calculations must round up to the nearest five-tenths, since half-hour segments will be the smallest unit for programming.

Importantly, this recommendation preserves the broadcasters' flexibility and power to determine their optimal mix of services and bandwidth management. The FCC determined that this flexibility was prudent and declined to mandate a standard amount of services that would rest on "a prior assumptions as to what services viewers would prefer."⁹⁵ However, this recommendation also protects E/I programming against segregation and also promotes use of advanced technologies to enhance the educational experiences of television. Children's E/I programming should participate in the benefits of multiplexing and high-definition A/V as much as broadcasters choose to use these services. Children Now has provided a sample case study worksheet in Appendix A.

c. Pay or Play Model

If the FCC wants to maximize broadcasters' flexibility, they could consider a "Pay or Play" model as a way in which broadcasters could meet their obligation to the digital Three-Hour Rule. Under this model public interest obligations are quantified, and

broadcasters have the choice of meeting these obligations through their own programming or by paying a share of revenues to bypass those obligations.⁹⁶

Should the FCC consider such a model, Children Now urges them to consider it as a means of expanding our recommendation for a digital Three-Hour Rule. Again, under Children Now's proposal for a digital Three-Hour Rule, broadcasters' obligation to E/I programming would increase proportionally to the number of hours they are multi-casting. A "Pay or Play" model would simply increase broadcasters' flexibility in meeting this public interest obligation.

Children Now encourages the FCC to consider a "Pay or Play" approach that is analogous to the trading of "pollution rights" under the Clean Air Act Amendment of 1990. Essentially, the Act successfully reduced sulfur dioxide emissions by giving companies allowances that they could buy, save, or use from other companies.⁹⁷ With its public interest obligation already quantified, the Children's Television Act could serve as an appropriate archetype for the "Pay or Play" model.⁹⁸

The FCC could maximize broadcasters' flexibility, by giving them the option of airing the required hours of E/I programming on their own channels, paying other networks or channels to air these hours for them, or a combination thereof.

As it stands, the 1996 Children's Television Act enables broadcasters to serve children by producing or supporting shows that are then broadcast by another station.⁹⁹

⁹⁵ *Fifth Report and Order, supra*, at 12826, ¶42.

⁹⁶ Advisory Committee Report at §III.10, *New Approaches to Public Interest Obligations in the New Television Environment*.

⁹⁷ Campbell, Angela, *Toward A New Approach to Public Interest Regulation of Digital Broadcasting* (visited March 7, 2000) < <http://www.aspeninst.org/c&s/dbpi11.asj> > at § *Proposal 4: The Pay or Play Option* [hereinafter Campbell].

⁹⁸ *Id.*

⁹⁹ *Id.* ("The Children's Television Act in fact has adopted this approach in permitting broadcast licensees to meet part of their obligation to serve the educational and information needs of children by demonstrating

To date, broadcasters have not taken advantage of this opportunity but the “Pay or Play” model could facilitate their participation. One of the benefits of this model is that it could promote partnerships between commercial broadcasters or commercial and non-commercial broadcasters in a given market.¹⁰⁰ The model also could provide much needed financial support to public broadcasters, who have a strong interest in and commitment to E/I programming.

There are several drawbacks to the “Pay or Play” model that the FCC should take into account if they are to mandate such a policy. Critics contend that under such a model, broadcasters will opt for the least expensive alternative, which will most likely be to air programming on their own stations, which could be of extremely poor quality.¹⁰¹ Critics also argue that this model will relegate public interest programming to public broadcasting, which would result in less exposure for America’s children.¹⁰² Another concern is that commercial broadcasters may not pay public broadcasters enough to be able ameliorate the current public broadcaster funding shortage, which, in the end, could reduce the quality of E/I programming.¹⁰³

Such concerns could be mitigated if the FCC mandates stringent guidelines to a “Pay or Play” model for the Children’s Television Act. The FCC should develop a formula to quantify the economic value of an hour of E/I programming.¹⁰⁴ Such a

‘special efforts to produce or support [children’s educational] programming broadcast in another station in the licensee’s marketplace.’”).

¹⁰⁰ *Id.*

¹⁰¹ *Id.*

¹⁰² Advisory Committee Report at §III.10, *New Approaches to Public Interest Obligations in the New Television Environment*.

¹⁰³ Campbell, *supra*, at § *Proposal 4: The Pay or Play Option*.

¹⁰⁴ According to proponents of this model, a payout of all public service requirements (not just E/I programming) would be about two percent of broadcasters gross revenues, currently valued at \$26 billion. See Neil Hickey, *Television News Is Moving From the Drab Old Neighborhood to Beachfront Property on the Cyber Sea*,” *Columbia Journalism Review* 47 (September/October 1999); Henry Geller,

formula should take into account Children Now's proposed DVEQ (digital viewer experience quality) as a means of quantifying the range of experiences that are now possible with DTV. Thus, the price tag for an hour of E/I programming would vary depending on the level of the DVEQ of the program. As previously stated, broadcasters should apportion their required E/I programming hours according to their overall DVEQ distribution. Such apportionment should mollify some of the concerns about E/I programming quality in a "Pay or Play" model.

The "Pay or Play" model will require more data gathering and monitored enforcement by the FCC to ensure broadcasters' compliance. When broadcasters file their quarterly reports on their E/I obligation, they should be required to report whether they aired these hours themselves or paid another station to fulfill their responsibility. They must disclose the name of the station that aired the hours for them, and the amount that they paid. Again, the payment must be based on the formula previously determined by the FCC, which should include the DVEQ as a variable. The FCC must be prepared to enforce these rules, and to apply fines when necessary to ensure compliance.

d. Diversity of Programming

In order to meet the educational needs of the vast child audience, it is essential that broadcasters provide a range of E/I programming. Children Now urges the FCC to be cognizant of the importance of diversity in children's educational programming, particularly in regards to: 1) the age of the target audience; and 2) the production locale.

i. Target Audience

Age-related differences in children's cognitive abilities influence their ability to comprehend and decipher media messages.¹⁰⁵ Preschool-age and young children often cannot understand media content because it is too conceptual or complex, causing their attention to wane.¹⁰⁶ In order to attract children's attention, broadcasters must create programming that is targeted to different age groups, taking into account the needs and abilities of children of these specific groups.¹⁰⁷ According to Dr. Kelly Schmidt, author of *The Three-Hour Rule: Is It Living Up To Expectations?*, minimal E/I programming exists for children under the age of five. Although this trend may represent a reluctance among broadcasters to label programming appropriate for that age group, it also could be that some advertisers feel that preschoolers are not a legitimate market.¹⁰⁸

Our youngest children can benefit tremendously from E/I programming that is developmentally appropriate; it cannot only educate and entertain, but it can prepare children for school, and has even been shown to improve test scores. According to a 1995 University of Kansas study, preschoolers in low-income areas who watched educational children's programming were not only better prepared for school, but actually performed better on verbal and math tests as late as age 7 than would have been expected otherwise. The study also found that preschoolers who only watched adult programs and

¹⁰⁵ Dale Kunkel & Brian Wilcox, *Children and Media Policy*, in *Handbook on Children and Media* (Dorothy and Jerome Singer, eds., forthcoming 2000).

¹⁰⁶ Kunkel & Wilcox, *supra*, at § *Adequacy of Television's Service to Children*.

¹⁰⁷ *Id.*

¹⁰⁸ Schmidt, *supra*, at 11.

entertainment-oriented cartoons did worse on those later tests than would have been anticipated.¹⁰⁹

Under the 1996 Children's Television Act, broadcasters are required to disclose the target age group that their E/I programs serve. Children Now urges the FCC to minimally require the same disclosure of digital broadcasters and to consider the importance of serving all children in the new digital era.

ii. Production Locale

Locally-produced programs provide an important niche for children, as they can educate and inform them about their community, as well as offer ideas of local activities in which to participate. Children Now urges the FCC to consider the benefits that locally-produced shows bring to the children in the communities they serve. Currently, there is a dearth of such types of E/I programming. According to the Annenberg Public Policy Center, only 65 of about 1200 E/I shows were locally produced in 1999; commercial broadcasters generally receive all of their E/I programming from the network with which they are affiliated.¹¹⁰

Most respondents of the Annenberg poll, *The Three-Hour Rule: The Insiders' View*, feel that there is a lack of E/I programs being produced by local stations, and many complained that there is a diminishing cadre of players in the production community. The FCC may want to consider ways of encouraging local broadcasters to produce some of their own E/I programming, as a means of diversifying E/I programming available to children in different communities.

¹⁰⁹ Lawrie Mifflin, *Study Finds Educational TV Lends Preschoolers Even Greater Advantages*, N.Y. Times, May 31, 1995, at B8.

¹¹⁰ Schmidt, *supra*, at 25.

e. Ratings and the V-Chip

In 1997, after great debate between children's advocates and broadcasters, a new voluntary television ratings system was implemented to give parents adequate information about the programs that their children watch. Parents now have a ratings system that includes content-based ratings, instead of age-based ratings only. The new system consists of content descriptors (V, S, L, D) which inform parents about shows that contain high levels of violence, sexual situations, coarse language, and suggestive dialogue, respectively. These ratings are used to rate most types of television shows including dramas, comedies, soap operas, movies, and talk shows. The new system also enhances the ratings for children's programs by adding an indicator for children's shows that include violent material (FV for fantasy violence).

V-Chip technology, when used in conjunction with the TV ratings system, enables parents to block programming they consider inappropriate for their children. During the first fifteen minutes of a program, broadcasters send an electronic identification signal that indicates a program's rating; the V-Chip then receives and processes this signal.¹¹¹ If parents have blocked shows with specific ratings, the V-Chip prevents such shows from appearing on their television screen.

As television moves from an analog to a digital system, Children Now urges the FCC to ensure that the V-Chip and ratings system are available to parents. According to a 1999 poll conducted by the Henry J. Kaiser Family Foundation, more than three fourths of parents (77%) said that if they had a V-Chip at home, they would use it to block out

¹¹¹ Center for Media Education and the Henry J. Kaiser Family Foundation, *What Parents Should Know About the V-Chip* (visited 3/23/00) < <http://www.vchippeducation.org/pages/usingr.html>. >

programming they deemed inappropriate for their children.¹¹² Similarly, six out of ten parents said they are concerned a “great deal” that their children are being exposed to too much sex (66%) or violence (60%).¹¹³ With broadcasters’ new multicasting capability, children will have access to many more channels and programs, potentially exposing them to more violence, sex, crude language and suggestive dialogue. Thus, the ratings and accompanying V-Chip technology should be available so that parents can monitor the shows their children watch in the digital age.

Children Now urges the FCC to consider how the advanced capabilities of digital broadcasting can help to provide ratings information to parents. Currently, the ratings symbol appears in the top upper left-hand corner of the screen during the first fifteen seconds of a television program. In order to determine the rating of a show, parents must either watch the beginning of the program, or check their local TV guide. More than two thirds of parents (67%) report that even when they looked for the rating on their television screen, they frequently missed it.¹¹⁴ Similarly, eight out of ten parents who use the ratings said that the ratings symbol should appear on the screen more often.¹¹⁵ With digital television’s capability to transmit data simultaneous with programming, broadcasters could make ratings (as well as E/I information) available throughout the length of a program. Broadcasters could also use datacasting to provide parents with information as to why a show received a particular rating or is categorized as E/I programming. Using the interactive capabilities that potentially will be available, with a

¹¹² *Campaign To Educate Parents About the V-Chip Announced*, The Henry J. Kaiser Family Foundation Press Release, May 10, 1999 available at <www.kff.org/content/archive/1477/vchip.html>.

¹¹³ *Id.*

¹¹⁴ The Henry J. Kaiser Family Foundation, *Parents, Children and the Television Ratings System*, (May 1988), p. 5.

¹¹⁵ The Henry J. Kaiser Family Foundation, *Parents, Children, and the Television Ratings System*, *supra*, at 8.

click of the mouse, parents could access pertinent program information at any point during the broadcast.

Children Now also asks that the FCC consider using digital television's increased capabilities to augment the current ratings system to provide even more information to parents. The FCC has indicated that it would take "an open, flexible approach to the development of industry standards and regulations that would accommodate the possible development of multiple ratings systems."¹¹⁶

The FCC should consider requiring broadcasters to provide additional content ratings information from independent sources. Eight out of ten voters favor an independent ratings system (84%), and think that developing such a system is important (87%).¹¹⁷ Digital technology should allow for the provision of multiple ratings systems. Such systems could be made available through the V-Chip itself (by using the additional spectrum available) or by providing links to the Internet where such information could be accessed. More research needs to be conducted as to how the V-Chip and TV ratings system can work most effectively for parents in the digital era. Children Now urges the FCC to issue an NOI to further explore this issue and to determine how to maximize content and ratings information for parents.

f. Commercials

As television moves from an analog to a digital system, Children Now urges the FCC to maintain the current regulations about advertising and children's television programming, specifically in regards to time limits and program-commercial separation.

¹¹⁶ 13 FCC Rcd 11248, 11251 (1998).

i. Time Limits

The Children's Television Act of 1990 limited advertising during children's programs to 12 minutes per hour on weekdays, and 10.5 minutes per hour on weekends. Broadcasters have overwhelmingly adhered to this rule, with a 1993 study showing 98% of stations in compliance.¹¹⁸ Children Now urges the FCC to uphold this rule in the digital era, and maintain these limits on advertising during children's programming.

ii. Program-Commercial Separation

Research indicates that by the age of five, most children are able to identify commercials aired during television programs. It is not until age seven or eight, however, that they truly understand the persuasive intent of advertising. In other words, children under seven see advertisements as part of television entertainment, while children seven and older are "coming to terms with the fact that advertisers are 'trying to get people to buy something.'" Thus, Children Now urges the FCC to uphold three current rules which help children to distinguish between commercials and the content of the show:

- 1) *Program length commercials*: Broadcasters cannot "air a program associated with a product in which commercials for that product are aired."¹¹⁹
- 2) *Host-selling*: Program characters or show hosts are not allowed to sell products in commercials during or adjacent to their shows.¹²⁰

¹¹⁷ *FCC Urged to Hold Public Hearings As Group Releases Poll Showing Support for Independent Ratings System for Violence, Sexual Content and Inappropriate Language*, People for Better TV Press Release, July 2, 1999, available at <www.bettertv.org/release0702.html>.

¹¹⁸ Stern, *supra*, at 65.

¹¹⁹ Kunkel & Wilcox, *supra*, at § *Fairness of Television Advertising To Children*.

¹²⁰ *Id.*

- 3) *Bumpers*: Required during children’s programs, bumpers are five seconds long and separate programs and commercials. They include messages like, “And now a word from our sponsor.”¹²¹

2. Additional Opportunities and Obligations

In addition to applying traditional principles of public-interest performance with appropriate modifications, the Advisory Committee also discussed appropriate additional public interest obligations “given the enhanced opportunities and advantages that broadcasters may receive through digital broadcasting.”¹²² Children Now agrees with the principle that “there should be some additional benefit to the public if its grant to broadcasters of the valuable digital television spectrum results in enhanced economic benefits for broadcasters.”¹²³ Further, as detailed above at Part II, *supra*, the technological advances of DTV offer exponentially more opportunities to meet children’s educational and informational needs. The FCC should ensure that those opportunities for America’s children are not overlooked in this pivotal transition.

Comments from the Center for Media Education (hereinafter, “CME”) present a set of options that broadcasters may use to satisfy their additional public interest obligations to children. The Advisory Committee laid out a similar model of alternatives in its discussion of multiplexing capabilities and the need for additional benefits to the public.¹²⁴ The CME model is composed of two levels of options, offering broadcasters maximum flexibility and control.¹²⁵ None of the options are mutually exclusive, giving

¹²¹ *Id.*

¹²² Advisory Committee Report at §III; *Fifth Report and Order, supra*, at 12830, ¶50 (“Broadcasters and the public are also on notice that the Commission may adopt new public interest rules for digital television.”).

¹²³ Advisory Committee Report at §III.5.

¹²⁴ *Id.*

¹²⁵ See Comments of Center for Media Education at §I (filed March 27, 2000 in MM Docket No. 99-360).

broadcasters the power to combine options and to optimize their bandwidth management. CME suggests that broadcasters may choose to fulfill their obligations by: providing more educational and informational (E/I) programming; paying a fee to a fund that support noncommercial programming; or providing broadband and datacasting services to local schools and libraries. For each of these options, broadcasters have a variety of methods to consider. For example, providing more E/I programming may be accomplished by dedicating an entire channel to E/I programming, dedicating one hour of E/I programming for every 20 hours of multicasting, setting aside a channel for children's programming and dedicating a substantial amount to E/I shows, or setting aside a channel for noncommercial public interest programming and dedicating a substantial amount to E/I shows.¹²⁶

Children Now recommends that the FCC consider additional obligations for digital broadcasters regarding children and children's programming. Further, Children Now recommends that the FCC consider the flexible and effective model proposed by CME as part of its rule-making process.

3. Children's Privacy & Protection on DTV

Convergence through the DTV platform will necessarily bring the current Internet policy issues of invasions of privacy and excessive advertising to the television arena. As detailed above at Parts I.A and II.C, *supra*, it is possible that these policy concerns will quickly affect a much larger population of children if the Digital Divide is narrowed by DTV. Correspondingly, Children Now recommends that the FCC consider additional rule-making to protect children from invasions of privacy and excessive and abusive advertising in the digital era. The Center for Media Education has conducted pioneering

¹²⁶ *Id.*

research and advocacy in these new media policy arenas. Comments submitted by CME detail recommendations for additional safeguards, including: the application of the Children's Online Privacy Protection Act of 1998 (COPPA) and corresponding Federal Trade Commission rules to DTV broadcasters collecting information from children; the application of existing advertising policies and regulations on all programs that are directed toward children twelve (12) and under regardless of what program stream they are on; and a prohibition of all links to advertising or sales during children's programming.¹²⁷

Children Now recommends that the FCC consider the expertise of CME and their proposals for additional privacy and advertising safeguards, in its rule-making process.

C. Disclosure Requirements

Children Now agrees with the principle that effective self-regulation requires broadcasters to disclose adequately their information regarding what they are doing. The current FCC disclosure rules require commercial TV broadcasters to include in their public files separate quarterly reports regarding their non-entertainment programming responsive to community needs and their children's programming.¹²⁸ These data include items such as citizen agreements, records concerning public office candidate broadcasts, employment reports, correspondence with the public, issues/programming lists, records concerning commercial limits in children's programming, and children's programming reports.¹²⁹ Toward the goal of significant and effective disclosures in the digital era, Children Now makes the following recommendations:

¹²⁷ *Id.* at §II.

¹²⁸ 47 C.F.R. §§ 73.3526, 73.3527.

¹²⁹ *Notice* at ¶16 (citing 47 C.F.R. § 73.3526(e)); *see also* In the Matter of Review of the Commission's Rules Regarding the Main Studio and Local Public Inspection Files of Broadcast Television and Radio

First, Children Now recommends that the current information reporting requirements established for implementing the Children's Television Act continue to apply to all digital broadcasting, including ancillary and supplementary services.

Second, Children Now joins the recommendations of the Advisory Committee and People for Better TV regarding enhanced disclosure requirements for digital broadcasters.¹³⁰ Enhanced reporting is necessary due to the complex and exponentially richer landscape of DTV compared to analog broadcasting. Broadcasters should report on their "public interest programming and activities on a quarterly basis, using standardized check-off forms that reduce administrative burdens and can be easily understood by the public."¹³¹ The enhanced set of data should "include but not be limited to contributions to political discourse, public service announcements, children's and educational programming, local programming, programming that meets the needs of underserved communities, and community-specific activities."¹³²

Third, Children Now recommends that the FCC affirmatively revisit its repeal of previous ascertainment requirements, and explore whether any of the revoked requirements have particular relevance and application to DTV.¹³³ This exploration should consider whether a specific requirement is applicable today as well as whether it will be applicable as the transition to digital television proceeds.

Finally, Children Now joins the Advisory Committee in its recommendation that digital broadcasters take affirmative steps to distribute their public interest obligation data

Stations, MM Docket No. 97-138, *Report and Order*, 13 FCC Rcd 15691 (1998) (*Public File Report and Order*).

¹³⁰ Advisory Committee Report at §III.1; Letter from People for Better TV to William E. Kennard, Chairman, FCC, Nov. 16, 1999; *Notice* at ¶15.

¹³¹ Advisory Committee Report at §§III.1, Appendix A.

¹³² *Id.* at § III.1.

¹³³ *See Notice* at ¶16 n.63.

more widely through channels such as local newspapers, local program guides, and the Internet.¹³⁴ Members of the People for Better TV coalition took considerable effort to obtain public information from broadcasters during the early part of 2000 in order to comment in this proceeding; any measures that facilitate this process would better serve the public and fulfill the true intent of the rule.¹³⁵

D. Diversity

Diversity of programming has long been a cornerstone of the broadcasting industry, from the *Great Lakes Broadcasting Co.* rules in 1929 to the Blue Book policy statement in 1946 to the 1960 Programming Policy Statement, and up to recent national discussions regarding prime-time diversity highlighted by the National Association for the Advancement of Colored People in 1999.¹³⁶ Both the FCC and the Advisory Committee have addressed the importance of diversity in broadcasting with respect to viewpoint, ownership, and employment.¹³⁷ As the FCC notes, many of the Advisory Committee's "recommendations bear on its goal of diversity in broadcasting," with proposals ranging from the capacity of multicasting to better serve underrepresented minorities in content and entrepreneurship to the use of recovered analog spectrum for noncommercial programming directed at underserved segments of the community to "hiring and promotion policies that result in significant representation of minorities and women in the decision-making positions in the broadcast industry."¹³⁸

¹³⁴ Advisory Committee Report at §III.1.

¹³⁵ See, e.g., Part III.F, *supra*; see also comments, observations, and letters filed by People for Better TV members for this FCC proceeding (MM Docket No. 99-360).

¹³⁶ See Advisory Committee Report at §II, *Encouraging Diversity of Programming*; *Great Lakes Broad. Co.*, 3 FRC Ann. Rep. 32 (1929); *Public Service Responsibility of Licensees* (the *Blue Book*) (1946); *En banc Programming Inquiry*, 44 FCC 2303 (1960); Greg Braxton, *NAACP Will Fight Network TV Lineups*, L.A. Times, July 12, 1999, at A1.

¹³⁷ Notice at ¶¶ 29-33.

¹³⁸ Notice at ¶32 (citing Advisory Committee Report at §III.9).

A consistent theme in the Advisory Committee's final report is that serving diverse interests and promoting diversity in broadcasting is both "good business and good public policy."¹³⁹ The Advisory Committee addresses growing commitments to equal employment opportunities in the digital era, expanded possibilities for diversity of programming due to multicasting and multiplexing (e.g., "narrowcasts"), designated noncommercial educational channels and datacasting to underprivileged and minority communities, and enhanced audio capabilities for increased use of foreign language tracks.¹⁴⁰ Children Now recommends that the FCC consider all of the Advisory Committee's proposals and arguments for promoting diversity in broadcasting in its rule-making process, and supports the FCC in its undertaking of initiatives designed to diversify broadcast ownership and employment.

Children Now also recommends that the FCC consider the effects of DTV convergence on the Digital Divide and diversity, as discussed at Part II.C, *supra*. While the actual closure of the divide will depend primarily on the price points of receiver hardware, the politics of convergence may force the public to purchase and thereby bring a greater population on-line.

Finally, Children Now and its Children and the Media Program have been engaged in issues of diversity and identity formation for several years, and we submit the following research reports to be placed in the record of this proceeding:¹⁴¹

- i. *Fall Colors: How Diverse is the 1999-2000 TV Season's Prime-Time Lineup?* (2000) [Appendix B];

¹³⁹ Advisory Committee Report at §III.9.

¹⁴⁰ See Advisory Committee Report at §§II, *Encouraging Diversity of Programming*, II, *Equal Employment Opportunity*, III.4(b), *The Creation of New Noncommercial, Educational Channels*, III.9, *Diversity in Broadcasting*.

¹⁴¹ All reports are available on-line at <<http://www.childrenandmedia.org>>.

- ii. *Boys to Men: Media Messages About Masculinity (Entertainment Media)* (1999) [Appendix C];
- iii. *Boys to Men: Media Messages About Masculinity (Sports Media)* (1999) [Appendix D];
- iv. *The News Media's Picture of Children: A Five-Year Update and A Focus on Diversity* (1999) [Appendix E];
- v. *A Different World: Native American Children's Perceptions of Race and Class in the Media* (1999) [Appendix F];
- vi. *A Different World: Media Images of Race and Class (conference report)* (1998) [Appendix G];
- vii. *A Different World: Children's Perceptions of Race and Class in the Media* (1998) [Appendix H];
- viii. *Reflections of Girls in the Media (Fourth Annual Children & the Media Conference)* (1997) [Appendix I]; and
- ix. *Reflections of Girls in the Media: A Two-Part Study on Gender and Media – Summary of Key Findings* (1997) [Appendix J].

This body of research presents a comprehensive examination of how America's young people perceive issues of diversity such as race, class, and gender in the broadcast media that they consume. Children speak about the lack of diversity and the unfair representation of minorities in the media. Further, many young people express their desire for more balanced, realistic, and real programming. Concurrently, these reports also provide content analyses of the most popular media among young people, with respect to these diversity issues. While some pictures have improved, there is still much room for greater positive diversity in programming.

Children Now submits this body of research into the record and recommends that the FCC take note of the findings. The voices of America's children should be included in this rule-making process.

APPENDIX A

Sample Case Study Worksheet for the Children’s Television Act in Digital

◆ **How to Calculate the Digital Three-Hour Rule Requirement (3% Rule)**

- 1) **Sample Digital Broadcaster:** WXYZ in Los Angeles, CA
- 2) **Total Digital Broadcast Hours Per Week (multicasting):** 400 hours
- 3) **Multiply Total Hours by 3%:** 12 hours
- 4) **Rounding Up to the Nearest ½ Hour:** 12 hours
- 5) **Preliminary E/I Hours Requirement:** 12 hours

◆ **How to Calculate the Digital DVEQ Rule Requirement**

- 1) **Sample Digital Broadcaster:** WXYZ in Los Angeles, CA
- 2) **Total Digital Broadcast Hours Per Week (multicasting):** 400 hours
- 3) **Preliminary E/I Hours Requirement (from above):** 12 hours
- 4) **Total Non-E/I Hours (400-12):** 388 hours
- 5) **DVEQ Distribution of Total Non-E/I Hours):**

DVEQ Categories	% of Total Non-E/I Hours
HDTV Single Channel With Datacasting & Interactivity	25% (97 hours)
HDTV Dual Channels With Datacasting	25% (97 hours)
SDTV Four-Channels	25% (97 hours)
SDTV Six-Channels	25% (97 hours)

6) Apportioning E/I Hours Requirement According to DVEQ Distribution of Non-E/I Hours:

DVEQ Categories	(% of Total Non-E/I Hours) x (Preliminary E/I Hours Requirement)	TOTAL E/I REQUIREMENT Round Up to Nearest 1/2 Hour
HDTV Single Channel With Datacasting & Interactivity	25% x 12 hours = 3 hours	3 hours
HDTV Dual Channels With Datacasting	25% x 12 hours = 3 hours	3 hours
SDTV Four-Channels	25% x 12 hours = 3 hours	3 hours
SDTV Six-Channels	25% x 12 hours = 3 hours	3 hours

7) Final Total E/I Hours Requirement: 12 hours distributed among 4 DVEQ categories

APPENDIX B

Fall Colors: How Diverse is the 1999-2000 TV Season's Prime-Time Lineup?
(2000)

Available for download at <http://www.childrenandmedia.org>.

Hard copy of report attached to Children Now's filing by paper.

APPENDIX C

Boys to Men: Messages About Masculinity (Entertainment Media) (1999)

Available for download at <http://www.childrenandmedia.org>.

Hard copy of report attached to Children Now's filing by paper.

APPENDIX D

Boys to Men: Messages About Masculinity (Sports Media) (1999)

Available for download at <http://www.childrenandmedia.org>.

Hard copy of report attached to Children Now's filing by paper.

APPENDIX E

The News Media's Picture of Children: A Five-Year Update and A Focus on Diversity (1999)

Available for download at <http://www.childrenandmedia.org>.

Hard copy of report attached to Children Now's filing by paper.

APPENDIX F

A Different World: Native American Children's Perceptions of Race and Class in the Media (1999)

Available for download at <http://www.childrenandmedia.org>.

Hard copy of report attached to Children Now's filing by paper.

APPENDIX G

A Different World: Media Images of Race and Class (conference report) (1998)

Available for download at <http://www.childrenandmedia.org>.

Hard copy of report attached to Children Now's filing by paper.

APPENDIX H

A Different World: Children's Perceptions of Race and Class in the Media (1998)

Available for download at <http://www.childrenandmedia.org>.

Hard copy of report attached to Children Now's filing by paper.

APPENDIX I

*Reflections of Girls in the Media
(Fourth Annual Children & the Media Conference) (1997)*

Available for download at <http://www.childrenandmedia.org>.

Hard copy of report attached to Children Now's filing by paper.

APPENDIX J

*Reflections of Girls in the Media: A Two-Part Study on Gender and Media –
Summary of Key Findings (1997)*

Available for download at <http://www.childrenandmedia.org>.

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2

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

In the Matter of)
Public Interest Obligations) MM Docket No. 99-360
Of TV Broadcast Licensees)

NOTICE OF INQUIRY

COMMENTS OF THE CONSUMER FEDERATION OF AMERICA

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March 27, 2000

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I. INTRODUCTION

The Consumer Federation of America (CFA) is the nation's largest consumer advocacy organization. CFA is a non-profit association of 260 state and local affiliates representing consumer, senior citizen, low-income, labor, farm, public power and cooperative organizations. CFA represents consumer interests before Congress and federal agencies and assists its state and local members in their local jurisdictions.

CFA commends the Federal Communications Commission (FCC) for opening this Notice of Inquiry (NOI) into the public interest obligations of digital broadcast licensees. However, CFA strongly urges the FCC to expand the scope of inquiry to examine consumer "pocketbook" implications that will be unique to the broadcast of digital television. While digital television has the potential to offer consumers new educational, civic participation and programming choices, it also presents very serious potential hazards. Some of these hazards, such as the possibility that the significant costs that will be incurred to convert from analog to digital television will diminish access to the media for many Americans who are already on the wrong side of the "digital divide," are addressed by the NOI. The NOI also properly includes queries regarding the effect of digital television on programming diversity and civic and political discourse, as well as how local broadcasters can respond to community needs.

However, several extremely important consumer issues that stem directly from the likely commercial model that will pay for digital TV are not addressed by the NOI. These concerns are unique to the digital era. These issues include the high likelihood that viewers' privacy could be invaded on an unprecedented scale unless protections are in place, as well as the very strong incentive that broadcasters will have to abuse this information by "overselling" to viewers. It is

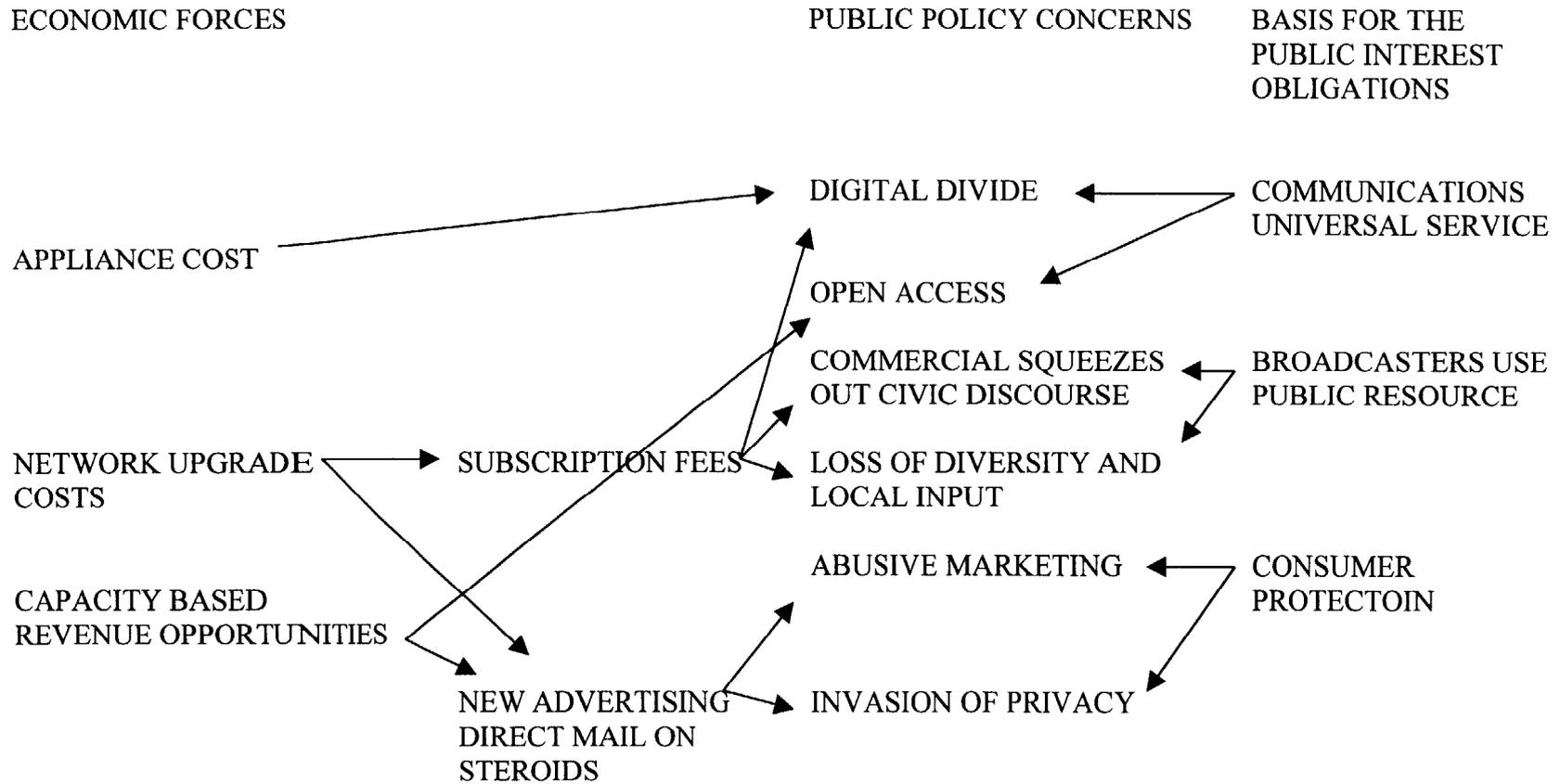
inconceivable that the FCC would conduct an examination of the public interest obligations of digital broadcasters and not consider the far-reaching consumer consequences of this new medium.

II. SUMMARY

The Commission's view of its role in establishing the public interest obligations on digital TV must recognize that digital TV has been swept up in the convergence of the television and the telecommunications industries. The traditional obligations that public policy has properly asked broadcasters to shoulder as the means of mass communications are intersecting with the traditional obligations that public policy has asked telecommunications companies to shoulder as the means of interactive communications. The traditional limits that have been placed on advertisers and markets must be extended, and perhaps expanded, to apply to this new more powerful marketing medium. We believe that the public interest obligations that should fall on this new medium of communications should be commensurate to the immense economic and political power that it will possess.

We see very powerful economic forces creating huge commercial opportunities and potentially significant social problems (see Exhibit 1). We believe that the Commission has more than adequate authority to define an aggressive public policy that will allow the new industry to develop while preserving and advancing the fundamental goals of consumer protection, civic discourse, and social responsibility.

**EXHIBIT 1:
THE EXPANDING ROLE OF DIGITAL TV AND THE BASIS FOR PUBLIC INTEREST POLICY**



A. The Digital Television Business Model Presents Unique Consumer Concerns

At one time, it might have been possible, or fashionable, to think about digital television as just a better way to deliver better broadcast television pictures with one signal through high definition television (HDTV). The much more likely scenario is that, rather than using their spectrum to deliver one high-quality picture, broadcasters will divide it up into multiple channels and sell more entertainment, as well as goods and services. As digital television expands the capacity to deliver programming, and the convergence of communications, computing and television entertainment takes hold, pay television services are expected to increase in number and price.

The new services could be expensive because of the studio equipment necessary to produce programming that takes advantage of the new appliance and also because of the infrastructure necessary to deliver interactive services is expensive. Whether the signals are broadcast over-the-air or through cable or satellite technologies, subscription services are expected to proliferate, with subscription fees rising.

B. Invasion of Consumer Privacy and the Abuse of Information to Oversell

The drive to fill more advertising space and sell more products over the digital communications network and the ability of that network to gather information in an interactive context raises concerns about the use of private information for marketing. On the interactive network, programmers and system operators can know what people watch and what they buy with remarkable detail. This information is extremely useful in targeting advertising and increasing sales. Since there is a strong need to sell more, it is hard to imagine that digital broadcasters will not exploit this information to the fullest.

The result will be an electronic “direct mail on steroids” pumped up by the ability of viewers to click through digitally inserted advertising for purchases. The advertising will be targeted at demographically compatible viewers identified by detailed information on viewing patterns and past purchases. This information will be embedded in programming, as suggested by an intuitive programming guide and/or restricted by the affiliate relationships of the broadcaster or cable provider.

Digital television also presents the likelihood of extremely aggressive advertising and “overselling” on a scale that has never occurred, not even on the Internet. The ability to distinguish advertisements from entertainment programming and to exercise informed choice will be undermined in this new media environment, especially for children. As advertising becomes more immediate through the use of interactive technology, consumers are disarmed. Electronic transactions that provide little opportunity for consumers to reflect on the purchase and make post-purchase remedies more uncertain increase concerns about overselling.

C. Widening the Digital Divide

The commercial model that is driving digital TV leads directly to a second public policy concern that is addressed in part IIC of the NOI. The expense of equipment, the cost of services, and the targeting of marketing points to a commercial model in which high-value, high income consumers participate and are targeted.

If digital TV were just a luxury diversion for the rich, its potential cost might not be a great source of concern to consumers and consumer advocates. However, television is the primary source of news and information dissemination in our country and consumers rely on television as their primary source of gathering information. Broadband services, delivered over

digital TV, hold the potential to increase the power of the TV medium by adding interactivity and much higher visual quality to a medium that already has great communicative power due to its reach, immediacy and real time delivery. Its role in e-commerce and political expression may be unprecedented.

Companies introducing technologies can identify the likely “adopters” and orient their product distribution to maximize the penetration within that market segment. The competitive energies of the industry are focused on the “premier” segment, with innovative offerings and consumer-friendly pricing, while the remainder of the population is ignored or suffers price increases. The merging of informational, educational and employment opportunities over the Internet with the commercial activities of interactive TV raises concerns that the commercial model might further isolate those who have been disadvantaged by the digital divide.

There is nothing inherent in the digital transformation that will alleviate the problem of information “haves and have-nots” and much that could exacerbate it. The digital transformation does nothing to reduce the economic, personal and social barriers. As the effects of the digital transformation spread, those who do not have command of the technology become marginalized.

D. The Threat To Programming Diversity And Civic Discourse

Because of the development of powerful commercial models that exploit the new capabilities of digital TV, it will likely take vigorous public policy intervention to ensure that digital TV serves the public interest with diverse program choices and socially relevant content and access to the means of public expression of views. The need to produce and sell commercial programming may squeeze out educational, cultural and informational programming

or cause this type of programming to be sold on a pay-per-view basis, limiting its availability to part of the population.

This traditional public policy debate in the broadcast area has its origins in the longstanding public policy of demanding socially responsible behavior from broadcasters who have used a scarce public resource – broadcast spectrum – at no charge. Although it can be argued that spectrum is no longer scarce, there is no question that it is still very valuable and broadcasters use it without paying for it. The nucleus of the debate remains the same. It focuses on broadcasters receiving their new spectrum free of charge, without restrictions in place to dictate how they can use the fresh channels and airtime.

Because policymakers recognize the uniquely important role that broadcast media play in civic discourse – radio and later television – policy has sought to prevent concentration of economic power from controlling the flow of ideas by placing limits on the ownership of media outlets and imposing obligations to expand programming beyond what is simply profitable. The advent of interactive multimedia digital TV increases the power of the medium and the commercial drive of digital TV reinforces that concern.

E. Local Broadcasters Should Meet Consumer and Public Interest Obligations

Public policy should seek compensation for the use of the broadcast spectrum, which remains a remarkably valuable input into the production of broadcast television. It should seek to balance the powerful forces driving the commercialization of the TV industry by promoting culturally diverse programming that may not be commercially attractive but that is educational and uplifting. Public policy should seek to ensure that this new more powerful medium does not result in the abuse of political power by those who control it and ensure that digital TV does not

widen the gap between information “haves” and “have nots.” Obligations should be placed on those who benefit from the federally mandated transition to digital TV help to narrow the gap that currently exists.

Local broadcasting will play a vital role in the distribution of programming. Ensuring cultural diversity and socially relevant programming is a matter of local programming to meet community needs. The gathering and compilation of viewer information will be a local matter – with information gathered in the set top box and compiled by the local cable operator or the local broadcaster. It is highly likely that the local station will be the one that controls the information for marketing purposes.

F. Policy Recommendations

Given the initial nature of this proceeding, the Commission should identify broad categories of public interest policies and outline its existing authority and public interest policies.

Privacy: The potential invasion of privacy under this business model will be massive. Without consumer protections in place, communications companies and media providers will gather information about consumer viewing habits, purchase patterns and lifestyle and use or resell that information for targeted marketing. The FCC should require broadcasters to obtain consumer consent before sharing information with third parties and corporate affiliates and to provide consumers with notice of broadcasters’ information sharing practices. Consumers should also have the right to review information collected about them.

Consumer Protection: The FCC should propose comprehensive measures to protect consumers who make purchases through digital television and that curb potential marketing abuses. These measures should include disclosures and remedies to protect consumers at every

stage of the purchase process, such as “cooling off periods” before sales become final. The FCC should also consider options to allow consumers to block unauthorized purchases and restrictions on interactive digital advertising directed at children.

Digital Divide: The FCC should monitor the market to ascertain whether equipment costs, subscription fees and pay-per-view charges are affordable and reserve the right to require broadcasters to charge reasonable rates for pay services. The Commission should also extend the principles of commercial leased access and free, or low cost civic discourse channels and require the production of new programming with diverse content.

Local Input: One important avenue for accomplishing many of these goals would be to place obligations on local broadcasters. Local broadcast stations can play a crucial role in helping to address these issues precisely because they are local. Local broadcasting has a long-standing obligation to promote the public interest because of its institutional nature. Local broadcasters will use digital spectrum to distribute the majority of the most watched programming and they have not paid for that spectrum.

There is no one federal policy that can solve these problems. There should be many local policies, but there is one step that is necessary at the federal level. Because the allocation of spectrum was a federal act, federal action is necessary to ensure that local use of the spectrum will be responsive to local demands. Federal regulators have the authority to require local broadcasters to be responsive to local needs, provide access to local programming, and work out privacy policy in response to local values. If they do not, local broadcasters are likely to resist because they will be caught up in the whirlwind of commercial forces that the new technology and federal policy have created.

Programming Diversity: In exchange for new digital spectrum that has been granted at no cost, the FCC should increase public interest obligations on broadcasters. This could be

achieved in a number of ways, i.e. requiring programming directed at typically neglected population groups, instituting minimum requirements for public service announcements and public affairs programming, etc.

III. DIGITAL TELEVISION COMMERCIAL MODEL AND COSTS

The key “pocketbook,” programming and access issues that the FCC should examine all stem from an analysis of the potential problems created by consumer economics of the transition to digital, broadband TV, as well as the likely business model that will be used to pay for digital television.

In the few years since federal policy became committed to the rapid deployment of digital television, in general, and HDTV, in particular, the consumer pocketbook issues have grown quite complex. At one time it might have been possible to think about HDTV as just a better way to deliver broadcast television pictures. In this simple world, consumers who had analog televisions would replace them with digital televisions and receive a much better picture. That simple formulation of the problem has dropped by the wayside.

It now appears that standard definition digital television, not high definition, will be the dominant form of digital TV. The quality of the picture will be less important than the new services made available and the new ways in which the TV is used. Digital TV will be thoroughly embedded in the overall transition to interactive, digital multimedia services. Digital TV is now viewed as much more than an appliance. Because of the way the services it supports will be delivered, it is more likely to be part of the terminal in the home – the customer premise

equipment – for the information superhighway.¹ It will be the link to the information age of the 21st century. As such, it will combine all of the dynamic technological developments at the intersection of computing networks (the Internet), video, and telephony. Thus, digital TV is increasingly viewed as a high-powered communications device connected to a high volume communications “pipe” delivering not only entertainment, but also interactive communications and e-commerce.

The economic forces that are shaping digital TV involve customer equipment that is more expensive than has been the norm and substantial system upgrade costs. Offsetting these costs is the ability to deliver a large volume of services in an interactive environment. This creates a huge commercial potential. A dramatic increase in capacity and the ability to target consumers with information and advertising as well as to sell on the spot suggests that revenue streams will grow dramatically.

The cost to consumers of watching TV can be measured today in three areas – appliance costs, subscription fees and advertising. These three revenue streams that support the delivery of video services will persist in the digital age; they will simply become bigger to offset the higher costs of service delivery. The ways they will become bigger are of substantial consequence to consumers.

A. Appliance and Industry Upgrade Costs

The costs of the switch from conventional to digital TV are both direct and indirect. Direct, out-of-pocket costs include the cost of the DTV equipment, such as new TV sets or set-

¹ A.T. Kearney, *Digital Television in a Digital Economy: Opportunities for Broadcasters* (National Association of Broadcasters, April 1998), Chapter 1, notes that “the advent of digital television will place broadcast stations in the midst of the digital economy.”

top box converters, and service subscription fees, resulting from broadcaster and network operator needs to cover the expenses of converting their equipment to digital capability, a multi-billion dollar venture. Indirect costs include the costs of advertising.

The cost of early HDTV equipment has been exorbitant -- inaugural HDTV sets at \$8,000 in retail price² and current prices in the range of \$2,000-\$4,000.³ Programming has been minimal. Yet experts remain confident that within 15 years all television broadcasting in the United States will be digital⁴ and that two-thirds of households will own some sort of digital device.⁵

Station conversion costs are estimated above \$5 to \$10 billion for broadcasters and cable TV network upgrade costs are in the tens of billions of dollars. As increased attention has been placed on digital television's emergence into the mainstream market, increased concern has been expressed about the cost of this new entertainment and communications appliance. It has become clear that HDTV may very well be a service attainable for only a small percentage of the wealthiest households.

B. Subscription Fees

² Advisory Committee on Public Interest Obligations of Digital Television Broadcasters: The Origins and Future Prospects of Digital Television; www.benton.org/PIAC/sec1.html

³ "Profile with Bob Wright: The Agony Before the Ecstasy of Digital TV," *Digital Television*, April 1999, p. 40.

⁴ Maxwell, Kim. *Residential Broadband: An Insider's Guide to the Battle for the Last Mile* (John Wiley: New York: 1999); pp. 9-10

⁵ Higgins, John, "Cable-digital Marriage a Blessing," *Broadcasting and Cable*, May 3, 1999; Morgan Stanley Dean Witter, *The Digital Decade*, April 6, 1999.

These large conversion and upgrade costs raise concerns that subscription fees will increase in frequency and rise in costs.⁶ There is a concern that subscriptions will become a more important source of revenue for the television industry than ad sales, which presently make up 55% of revenue. By breaking the digital signal into a number of channels, broadcasters will seek to require consumers to pay for several of these. The shift to subscription fees will cause even higher direct costs for DTV consumers.⁷ Cable and satellite services (DBS), which already charge fees for service, will increase their fees in addition to adding more pay-per-view services.

As digital TV expands the capacity to deliver programming and the convergence of communications, computing and TV entertainment takes hold, pay-TV services are expected to increase in number and price. The new services could be expensive because of the studio equipment necessary to produce programming that takes advantage of the new appliance and also because the infrastructure necessary to deliver interactive services is expensive. Whether the signals are broadcast over-the-air or with cable or satellite technologies, subscription services are expected to proliferate and subscription fees are expected to rise.

Another area of concern is that vigorous marketing of new services and options for consumers may lead to additional costs. Consumers will have many more services to choose from, from high-definition programming and multicasting of niche-audience channels to near-video-on-demand to computer-interactivity.⁸ The strengthened technology could result in the offer of more products to consumers in the form of Digital TV programming packages. The

⁶ Davis, Jim. April 21, 1999, Zdnet.com; *Seminal TV Firm Sarnoff Goes Digital*

⁷ Digital Terrestrial, p. 5.

it will (some say must, if it is to prosper) change the norm in TV from free-to-air to Pay-TV: digital TV will be in effect, Pay-TV, with free-to-air channels in the minority

ability to deliver large numbers of channels with specialized packages leads to an effort to tailor and personalize offerings.⁹ This creates choice for consumers, but the choices can be influenced or controlled by the provider. This control can come in one of three ways – suggestions made by programmers,¹⁰ control over interfaces with electronic programming guides,¹¹ or discriminatory policies with respect to programmers who are not affiliated with the cable system owners.¹²

C. Advertising Revenue

Advertising will be transformed in the digital age. In order to generate more revenue to programmers, advertisers must be convinced that their advertising will produce more sales. Current thinking is that the best way to improve the effectiveness of advertising is to target it

⁸ Advisory Committee on Public Interest Obligations of Digital Television Broadcasters: The Origins and Future Prospects of Digital Television; www.benton.org/PIAC/sec1.html

⁹ Menezes, Bill, "Replay, TiVo Get Cash for Consumer Push," *Multichannel News*, April 5, 1999, p. 48.

Investors and programming partners believe that by enabling subscribers to record shows, to search channel content for genre- or actor- specific programs and to create their own customized program line-up the boxes and recording devices will drive viewership and new subscribers to premium and pay per view channels.

¹⁰ Shaw, Russell, "'Tapeless' VCR Does the Thinking for Viewers," *Electronic Media*, April 5, 1999, p. 18 (Hereafter 'Tapeless' VCR Does the Thinking for Viewers).

TiVo will off "Showcases" that will make on-screen suggestions to viewers about possible taping choices. It will base these recommendations on technology that will compare aspects of certain shows to others. It will automatically deduce, for example, that people who have taped a spy movie might like to record other movies in the genre.

Salfino, Catherine Setting, "TiVo and Replay Hope to Change the Way We Watch TV," *Digital Television*, February 1999, p. 29.

TiVo explains that it has to charge the service fee because it is providing an "intuitive service that learns what you watch" (something that constantly changes) and presents it to the viewer.

¹¹ Weightman, Donald, "The Broadband Internet Wars," *Slashdot*, July 20, 1999. Markoff, John, "Microsoft Hunts Its Whale, the Digital Set-Top Box," *New York Times*, May 10, 1999. Boersma, Matthew, "Microsoft, @Home Make Broadband Pact," *ZDNET*, May 13, 1999.

¹² Consumer Action and Consumer Federation of America, *Transforming the Information Superhighway Into A Private Toll Road* (September 1999).

better.¹³ Interactive digital networks create the possibility of generating the information necessary to identify individual preferences and tailor the message – either by delivering it selectively to a higher probability audience or by making it more appealing. Not only can advertising be targeted better, but also interactivity makes it easier to buy the advertised product.

In a sense, a new advertising industry may be born in the transition to digital TV. The only way in which a dramatic increase in advertising can be accomplished is through a fundamental change in the nature of the activity. Advertising revenues are driven by the ability to sell, and digital TV changes the business of selling through television. The huge transformation of advertising is driven by two characteristics of the new advertising medium – the immediacy of the purchase and the targeting of the message.

One key factor in increasing the likelihood that advertisers will sell their products is the ability of the viewer to purchase instantaneously or to otherwise establish an immediate connection with the advertiser. Instead of having to dial a number or write a letter, the consumer is only one click away from the purchase. The connection can be made immediately from the device on which the advertisement is being viewed and without ever leaving the context of the advertisement.

The second key characteristic that transforms advertising is the ability to use information about the consumer to target the advertising. Advertising can be imbedded and tailored not only to the specific type of program being watched, but it can be correlated with information about the viewer that has been gathered over the course of previous viewing sessions and interactions.

¹³ Van Orden, Bob, “Top Five Interactive Digital-TV Applications,” *Multichannel News*, June 21, 1999, p. 143, Kearney, Chapter 4.

Detailed information is available at the subscriber level within the digital set-top box to allow highly targeted marketing. The technology not only allows the consumer to select and store preferred programs, but it could allow consumer specific advertising to be inserted.

A whole new approach to advertising is made possible by the detailed information and high level of control over the flow of images and information. Advertisers can insert their promotions into a stream of bits in real time or in play back. Live video insertion has already aired in prime time.¹⁴ Technology with the capability to insert specific advertising into programming that is being recorded for later playback is already being marketed.¹⁵

With this level of control, the potential for forced, banner-type advertising that cannot be fast-forwarded grows. Advertising can be embedded in program and targeted to audiences so that it must be viewed.

¹⁴ Berger, Robin, "Digital Technology Virtually Blurs Reality," *Electronic Media*, April 5, 1999, p. 14.

Sports fans have seen the handiwork of Princeton Video Image, the Sengali behind the Southwest Airlines pre-season logo and the Bravo sign behind home plate at Qualcomm Stadium. Neither appeared in real life...

Algorithms in the software fix on the recognizable pattern of a landmark and digitally insert artwork track the insertion through the take and keep foreign objects in perspective

¹⁵ 'Tapeless' VCR Does the Thinking for Viewers, p. 18.

Both services are basing their revenue model on their capability to handle proprietary advertising that could run in the interface the viewers would see during playback.

"We are also a back channel with an opportunity for different forms of transaction interactivity," Mr. Plant [director of marketing for Replay Networks] says. "There could be advertising, [or an invitation] to receive a brochure."

Adds Mr. Hitt [TiVo's director of product marketing management], "We'll offer advertisers the ability to buy promotions and have them run in front of showcases that consumers want to view."

TiVo's Mr. Harris calls this option "frame-by-frame replacement advertising." An advertiser could place demographically compatible commercial or a "click for brochure" in the stream of a show to be recorded for later viewing by TiVo subscribers – even if the company doesn't advertise on that show.

IV. INVASION OF PRIVACY AND ABUSE OF INFORMATION TO OVERSELL

The sensitivity of consumers to the potential exploitation and abuse of this personalized information has brought forth assurances that the information will be held securely and utilized only in the aggregate. However, it is hard to imagine that this valuable information will sit unused in the set-top box at the fingertips and under the control of the service provider. Since there is a strong need to sell more, it is likely that the information will be exploited to the fullest. Not only will they use it directly, but they may sell it to others.

Concerns about “overselling” also have been raised. Traditionally, restraints on advertising and overselling have focussed on the most vulnerable population – children. The concern is that children are unable to distinguish the advertisement from the entertainment and unable to exercise informed choices. As the advertising becomes more powerful and targeted through the use of personal information and the purchase becomes more immediate through the use of interactive technology, the concern about overselling spreads to the general population.

The concerns about aggressive marketing and overselling arise from two interconnected factors. First, the presentation of choices and alternatives may be manipulated so that the consumer loses control over what is viewed. Second the likely reliance on highly targeted advertising which is built on detailed personal information about viewing and purchase patterns disarms the consumer.

As noted above, the amount of information available to network operators is staggering. It is possible to monitor viewing patterns, including which shows are tuned in, which commercials are skipped, etc. It is also possible to keep records of purchase patterns, which sites are visited, what information is requested and which goods are bought. This information is

extremely valuable to advertisers. One must assume that unless prevented from doing so, they will use it.

The threat to privacy in this commercial model is clear. The privacy protections afforded to telecommunications' consumers in current policy is very uneven.¹⁶ It goes without saying that consumers have a right to control their personal information. Moreover, the vast majority of Americans strongly support FCC measures to protect digital television consumer privacy.¹⁷ In keeping with our focus on pocketbook issues, we ask whether the use of personal information in the context of an interactive, electronic transaction creates a risk of "overselling" by abusing personal information and the intimacy (immediacy, seclusion) of the interactive TV environment.

A. Pre-Purchase Problems

The utilization of detailed consumer information to target the advertising is liable to catch the consumer unaware. Consumers do not expect marketers to have such information. The irony of the fit between the message and the individual consumer may be "disarming," lowering the consumers guard.

Consumers also are confronted with a difficult problem of sorting out the nature of the source of the information when presented in this digital context. Infomercials and advertorials, whose purpose it may be to confuse consumers, will become even more challenging when they are personalized.

¹⁶ Whyman, Bill, "Cable's Data Privacy Rules Stumbling Block for E-Commerce and @Home?", Legg Mason Precursor Research, April 6, 1999.

¹⁷ 80 percent of voters favor FCC guidelines to protect consumer privacy; 83 percent think establishing privacy protection guidelines is important; Lake Snell Perry, May 1999.

The educational and information gathering process that consumers would normally go through in the pre-purchase phase is distorted by the use of personal information embedded in the interactive context of digital communications. The immediacy of the purchase, which is facilitated by interactivity, may create a condition of urgency and time constraint, which diminishes the tendency of the consumer to search for alternatives. The ability to distinguish between what must be done without delay and what is optional may be limited.¹⁸

Warning messages about a purchase may not be effective in this context. If they require a consumer to react quickly, like hang up or tune out before billing starts, the message may be missed. Since the purchase decision is not focused on the array of products being offered, warnings and cautions are less likely to be heeded.¹⁹ A lack of involvement may result in confusion.²⁰

B. Point-of-Sale Problems

The billing pattern for these services is also problematic. There is a disconnection between the purchase and the bill. Many weeks may elapse between the purchase and the bill. Further, the bill may make it difficult to identify exactly what costs how much. The difficulty of

¹⁸ Newman, J. W., "Consumer External Search: Amount and Determinants," in A.G. Woodside, J.N. Sheth, and P. D. Bennet (Eds.), *Consumer and Industrial Buyer Behavior* (New York: North Holland, 1977); Newman, J. W. and R. Staelings, "Multivariate Analysis of Differences in Buyer Decision Time," *Journal of Marketing Research* 8, 1971, "Prepurchase Information Seeking for New Cars and Major Household Appliances," *Journal of Marketing Research*, 9, 1972; Claxon, 1974; Beatty, S.E. and S. M. Smith, "External Search Effort: An Investigation Across Several Product Categories," *Journal of Consumer Research*, 14, 1987. Wilkie, 1982; Funkhouser, 1984.

¹⁹ Wilkie, 1987, Funkhouser, 1984.

²⁰ Jacoby and Hoyer, Laczniak and Grossbart, 1990.

sorting the bill out renders pre-purchase information gathering and post-purchase follow up less likely.²¹

Electronic transactions also frequently allow for little pause to contemplate. When consumers are on-line, over the phone or at the computer, they may feel rushed by tying up the line. On-line environments frequently give warning messages about idle time. Since the transaction is conducted electronically, there is little opportunity for point-of-sale information gathering. Information gathering for later review assists in decision making.²² No immediate record of the transaction exists and the transaction is not available for public scrutiny.²³

C. Post-Purchase Problems

It is extremely difficult to police these transactions. Sellers know that the transaction cannot be observed. Consumers do not have records to study or use for dispute resolution. They do not take possession immediately. The bill does not come until some time later. There may also be uncertainty about redress and responsibility for service. The former utility will typically be seen as the responsible party, but that may be correct only under some circumstances. Sorting out whom is responsible for which part of the total service may be difficult. When three or four companies become involved, transaction costs for the consumer can mount quickly.

It is clear that return policies are being influenced by the nature of goods sold in e-commerce. Shrink-wrapped software is the best example. You open the box; it is yours. If it

²¹ Chaiken, S., "Heuristic versus Systematic Information Processing and the Use of Source versus Message Cues in Persuasion," *Journal of Personality and Social Psychology*, 39, 1980; Zimmerman, L. K. and L. V. Gesfeldt, "Economic Factors Which Influence Consumer Search for Price Information," *Journal of Consumer Affairs*, 18, 1984; Beaty and Smith; Newman, 1977.

²² Wilkie, 1982.

²³ Bloom.

does not work, you can exchange it, but you cannot get your money back. Why not? The no return policy places more emphasis on the post-purchase phase. If the consumer cannot get his or her money back, then customer service or post-purchase remedies must ensure that the product works.

The physical aspect of returning goods also changes. Goods are generally returned in the way they are purchased. If the consumer got it from a store, he or she will typically be told to return it to the store. If the consumer received it by mail order, the consumer will be required to return it mail order. Credit card transactions will be credited after the returned product is received. If the product was downloaded, is it returned by uploading? Industry analysts and consumer advocates have argued that more vigorous post-purchase remedies are necessary to create confidence in e-commerce transactions.²⁴

D. Policy Recommendations

1. Customer Privacy. The FCC should require broadcasters to comply with privacy guidelines that meet the following principals:

- a. Notice:** Broadcasters must inform their customers in a clear and conspicuous manner when they plan to collect, use, and/or disclose personally identifiable information, and customers must be told the intended recipient of the information and the purpose(s) for which it shall be used.
- b. Consent:** Broadcasters must receive prior affirmative consent of the customer before it discloses that customer-specific viewing, purchasing or financial information to any third party or affiliate. No customer can be denied any product or services by a broadcaster for refusing to

²⁴ Consumers International, 1998

give consent to the disclosure of the customer's personal information except where necessary to determine eligibility for a specific product.

c. Access: Customers must have access to personally identifiable information held by the broadcaster to make sure it is accurate, timely and complete and customers must have the ability to correct erroneous information.

2. Purchase Protections/ Abuse of Information to Oversell. As telecommunications and broadcasting technologies begin to converge, so should consumer government oversight. The FCC should consult the Federal Trade Commission and propose comprehensive measures to protect digital television consumers before, during and after the purchase of goods or services. These measures should be consistent with basic guidelines for online commerce developed by the Consumer Federation of America and an international working group of consumer organizations.²⁵ The FCC should seek specific comments from stakeholders regarding potential remedies aggressive advertising, including:

²⁵ Guidelines proposed by the Transatlantic Consumer Dialogue:

1. Consumers should have transparent and effective protections that are at least at the same level as those afforded in other forms of commerce.
2. Businesses should disclose their legal names and physical locations, and provide consumers with an easy means of contacting them, both online and offline.
3. Marketing material should be clearly identified as such in any electronic format in which it is conveyed.
4. Information about the businesses, the products or services they offer, and the terms of the transactions, including price, delivery, payment, taxes, cost of transportation, duties, etc., should be stated in a clear, conspicuous, accurate and easily accessible manner before a consumer is required to give personal information or payment information.
5. Businesses should not make any representations or omissions, or engage in any practices, that are likely to be unfair, deceptive or fraudulent.
6. Businesses should be able to substantiate any claims they make, express or implied.
7. Businesses should develop and implement methods by which consumers can confirm the decision to purchase or withdraw from a purchase before a transaction is completed. Consumers should have no liability for unintentional or erroneous transactions where the business failed to provide an adequate opportunity to correct the error.
8. Businesses should develop and implement methods by which consumers can receive confirmation of their purchases and retain records of the transactions.
9. Businesses must abide by any post-purchase cancellation rights that may be provided by self-regulatory guidelines and the law in consumers' jurisdictions.

a. Post-purchase remedies, including the right of rescission to cancel purchases made through digital television for up to three days.

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10. Businesses should develop and implement methods to prevent identity theft and other frauds and verify that payment is being made by the authorized account holder. The burden of proof regarding authenticity should rest with the business and/or payment systems operator, as appropriate. Consumers should be responsible to notify the appropriate entity promptly once aware of possible theft or loss, and should have no liability for transactions they did not authorize.
 11. Consumers' payment and other information that they provide to businesses should be secured from theft or abuse.
 12. Consumers should have no liability to pay for products or services that were never delivered or were misrepresented. In those events, electronic payment methods should provide for "chargeback rights" and prompt return of any payments made.
 13. Businesses should develop and implement simple procedures for consumers to indicate that they do not wish to receive unsolicited e-mails and honor their "do not e-mail" requests.
 14. Consumers' privacy rights should be respected in accordance with the recognized principles set out in the 1980 OECD Guidelines Governing the Protection of Privacy and Transborder Flow of Personal Data and taking into account the OECD Ministerial Declaration on the Protection of Privacy on Global Networks.
 15. Consumers must have methods of redress that are practical, accessible, affordable, timely and enforceable no matter where businesses against whom they have complaints are located.
 16. The countries in which consumers reside have the obligation to protect them in electronic commerce and must guaranty that there are appropriate means for resolving consumers' disputes. Consumers should never be denied the protections and remedies afforded to them by the laws, rules and regulations of their respective jurisdictions.

B. Jurisdiction

Consumers must have access to adequate redress if problems arise when buying goods and services on the Internet. Although the marketplace is global, consumers must have the right to take action before their own national court. Consumers should only be pursued before a court in the consumer's home country. A choice of forum clause in a consumer contract is not enforceable. International co-operation is needed to enforce judgements against companies in cross-border disputes.

C. Alternate Dispute Resolution

Consumers need alternative dispute resolution systems where consumers can file complaints without going to court. Alternative dispute resolution systems to resolve consumer complaints in the context of electronic commerce should be based on these principles:

1. Framework for ADR systems should be set by legislation and presented as a voluntary option for consumers, not a legal or contractual requirement.
2. ADR systems should be easily accessible and convenient. Information about procedures, costs, basis for decisions, and the enforceability of decisions should be provided prominently and clearly.
3. ADR systems should be free or low-cost and operate in an expeditious manner.
4. ADR systems should be independent, operated by reputable third-parties. Personnel should have no direct interests in the disputes or the parties involved.
5. Meaningful enforcement of decisions reached by ADR is essential.
6. Consumers who submit disputes to ADR systems should not be asked to waive their legal rights. Consumers' use of ADR systems should not prevent law enforcement authorities or others from using their cases in actions to stop fraud or abuse.

- b. Requiring digital television providers to offer purchase screening options that would, for instance, allow parents to “block” the unauthorized purchase of goods and services by their children.
- c. Restrictions on interactive digital advertising directed at children.

V. WIDENING THE DIGITAL DIVIDE

As digital communications become the dominant form of communications, the high costs for the appliance and increasing presence of subscription services may price many consumers out of the market. As a result, they would be cut off from the higher quality services and information sources that are commanding society’s resources and attention. High costs of digital TV could solidify the “Digital Divide” that many fear has been growing in America.²⁶

Not only could low income and minority groups be denied access to commercial services, but also they could be cut off from the primary driver of economic opportunity as well as the major arena for civic and political discourse in the 21st century.

A. Measuring the Digital Divide

The Digital Divide can be measured in at least three different ways. The Consumer Federation of America and Consumers Union (CFA/CU) recently analyzed the digital divide in terms of the use of communications services – telephone, cable television and Internet. The Clinton Administration has analyzed the digital divide in terms of ownership of computers and

²⁶ Cooper Mark and Gene Kimmelman, *Digital Divide: Economic Reality Confronts Public Policy* (Consumer Federation of America and Consumers Union, January 1999); NTIA...

use of the Internet.²⁷ Social analysts discuss the digital divide in terms of economic skill and employment prospects. All three approaches yield a similar and reinforcing picture of a major and extremely serious division in society (see Exhibit 2).

²⁷ (Petty, 1998)

**EXHIBIT 2:
CHARACTERIZATIONS OF THE DIGITAL DIVIDE**

SOURCE	CFA/CU		NTIA		SOCIAL COMMENTARY	
ANALYTIC APPROACH	Digital Divide defined by usage of communications		Digital Divide defined by computer ownership and Internet use		Digital Divide defined by employment skill category	
CLASSES		<i>% of Pop.</i>		<i>% of Pop.</i>		<i>% of Pop.</i>
UPPER	Premier & Internet	24	Computer	26	Symbolic Analyst	20
UPPER MIDDLE	Transitional no Internet	15	Computer	16	Support personnel	20
LOWER MIDDLE	Mobile	16	No Computer	58	Casual Middle	30
LOWER	Modest	45			Bottom	30

SOURCE:

CFA/CU: Cooper, Mark N. and Gene Kimmelman, *The Digital Divide Confronts the Telecommunications Act of 1996: Economic Reality vs. Public Policy*, (Consumer Federation of America and Consumers Union, February 1999).

NTIA: *Falling Through the Net: Defining the Digital Divide*, July 1999.

SOCIAL COMMENTARY: Hall, Peter, "Changing Geographies: Technology and Income," and Manuel Castells, "The Informational City is a Dual City: Can It Be Reversed," in Donald A. Schon, Bish Sanyal and William J. Mitchell, *High Technology and Low-Income Communities* (MIT Press: 1999).

CFA/CU identified a top segment of the population with large communications expenditures, which represents about one quarter of the population. Borrowing a term from industry business models, we called this the premier market segment. A second closely related group we called the transitional group. Taken together, we estimated these two groups as 40 percent of the population.

In the CFA/CU analysis the bottom 60 percent is generally not hooked into the information age. The bottom 60 percent did not have access to the Internet and spent relatively little on communications services. The bottom 45 percent had only one telephone line, no Internet access and no cellular service. Another 15 percent had one telephone line, no Internet access, but did have a cellular phone.

B. The Impact Of The Digital Transition On The Digital Divide

The description of the Digital Divide tells us nothing about how the transition to digital TV, embedded in the broader transition to a digital information society will affect the divide. The obvious concern is that the high cost of acquiring these new services will make matters worse.

The well-established field of diffusion research provides support for this concern. The academic literature on the adoption of innovations certainly suggests that the early adopters will be the wealthier, better-educated segments of the population.

The cost of appliances, relative to income is a major determinant of their diffusion throughout the population. About a decade ago, CFA found that the best approach to understanding affordability is to express the cost of the service (including equipment and monthly charges) as a percentage of income. This captures the two most important variables

that are generally identified in the diffusion literature, price and income. What we found in that earlier research was that an appliance or service needs to drop below 2 percent of income before it becomes affordable.

The belief by at least one TV executive that the TV set needed to be on a price trajectory from \$1,000 to \$250 is well founded.²⁸ This is the price trajectory of the VCR, which penetrated very rapidly in the 1980s to reach more than 80 percent in less than a decade. Digital TV is still quite a distance away from this price trajectory. The most recent experience with computers appears to bear this out. After hovering in the \$1,000 to \$1,500 range for a number of years, a significant price reduction occurred in late 1998 and has persisted through 1999. The average price has dropped to below \$900, with many models selling in the \$500 range.

With median income in the range of \$38,000 a \$500 computer is well below 2 percent of median household income. Early indications are that this will increase the penetration of computers significantly.

Even the most optimistic price trajectory of HDTV would leave it at a relatively high level even at the end of the next decade. It will simply not be priced in a manner to be widely affordable and achieve high levels of penetration. The problem is not limited to HDTV, however. Even considering Standard Definition Digital television, affordability is a problem.

The SDTV set is projected in the range of \$500 for equipment. This is about twice the price of an analog TV. Moreover, the SDTV is only useful if one subscribes to cable (another \$30-\$40 per month) and then pays for additional digital services (another \$10-\$40 per month). The cost of service is driven well above the level where diffusion is rapid.

²⁸ Bob Wright.

This picture of the likely early adopters had not changed in ten years.²⁹ It is quite similar to the results one finds in a very long tradition of innovation adoption research.³⁰ There is a very strong base of support for the importance of income and education in the adoptions of high technology innovations like computers and telecommunications equipment.³¹ The strong predictors of inclination to early adoption point directly to market segmentation strategies.³² In other words, companies introducing technologies can identify the likely adopters and orient their product distribution to maximize the penetration within that market segment.

This observation dovetails with the CFA/CU analysis of the digital divide that focused on the business models that were being applied by the telecommunications companies. CFA/CU found that the competitive energies of the industry are focused on the premier segment, with innovative offerings and consumer friendly pricing, which the remainder of the population is ignored or suffers price increases.³³

²⁹ Dupagne.

³⁰ Sakar, Jayati, "Technological Diffusion: Alternative Theories and Historical Evidence," *Journal of Economic Surveys*, 12:2, 1998; Martinez, Evan, Yolanda Polo and Carlos Flavian, "The Acceptance and Diffusion of New Consumer Durables: Differences Between First and Last Adopters," *Journal of Consumer Marketing*, 15:4, 1998.

³¹ Meeks, Carol B., Anne L. Sweaney, "Consumer's Willingness to Innovate: Ownership of Microwaves, Computers and Entertainment Products," *Journal of Consumer Studies and Home Economics*, 16, 1992; Savage, Scott Gary Madden and Michael Simpson, "Broadband Delivery of Educational Services: A Study of Subscription Intentions in Australian Provincial Centers," *Journal of Media Economics*, 10:1, 1997; Atkin, David J., Leo W. Jeffres and Kimberly A. Neuendorf, "Understanding Internet Adoption as Telecommunications Behavior," *Journal of Broadcasting and Electronic Media*, 42:4, 1998; Neuendorf, Kimberly A., David Atkin and Leo W. Jeffres, "Understanding Adopters of Audio Information Innovations," *Journal of Broadcasting and Electronic Media*, 42:4, 1998; Lin, Carolyn, A., "Exploring Personal Computer Adoption Dynamics," *Journal of Broadcasting and Electronic Media*, 42:4, 1998.

³² Sultan, Fareena, "Consumer Preferences for Forthcoming Innovations: The Case of High Definition Television," *Journal of Consumer Marketing*, 16: 1999, p. 37.

³³ Cooper, Mark N. and Gene Kimmelman, *The Digital Divide Confronts the Telecommunications Act of 1996: Economic Reality vs. Public Policy*, (Consumer Federation of America and Consumers Union, February 1999), pp. 3-4.

Thus, the continuous debate since the passage of the 96 Telecom Act over the need to deploy infrastructure to eliminate the "digital divide" has been significantly misplaced. That expression

Social analysts have expressed similar concerns. They caution that there is nothing inherent in the digital transformation that will alleviate the problem of the digital divide and much that could exacerbate it. In short, the digital transformation does nothing to reduce the economic, personal and social barriers.³⁴ As the effects of the digital transformation spread, those who do

has been used to refer to the possibility that some groups of consumers would be cut off from the expanding possibilities of the information age because of a failure of private sector firms to deploy the necessary infrastructure. This paper shows a digital divide from a vastly different perspective.

We present evidence that the market activities of the firms in the industry are creating a divide not on the basis of infrastructure, but on the basis of economics. The current infrastructure is more than adequate to generate a very high stream of revenue and meet the needs of virtually all consumers. The companies appear to be interested in competing for the business of a small segment of the market – intensive users of numerous telecommunications and TV services. The group of consumers who are attractive to companies is quite small. The drive to expand the infrastructure serves the needs of this small group and leaves the rest behind.

If policymakers allow the debate over the high-end markets to drive public decisions about infrastructure deployment, the digital divide will grow, not be reduced. The availability of more infrastructure will expand economic opportunity at the top of the market and reduce the likelihood that companies will have to work their way down the market to increase their economic rewards. Profit maximizers will simply exploit the demand for more service in the upper end of the market more intensity.

This fundamental economic observation is crucial to developing sound public policy. Massive industry consolidation under a law that fails to differentiate areas of likely competitive opportunity from areas of persistent monopoly is leading to a new era of telecommunications haves and have-nots as described below.

³⁴ Donald Schnook, Bit Sandal and William J. Mitchell, *High Technology and Low-Income Communities* (MIT Press, Cambridge, 1999), pp. 7, 12, 51.

Much advanced service activity depends on what one can call “access to privileged information”: whether in the City of London, or Midtown Manhattan, or Silicon Valley, or Hollywood, higher-level information workers spend a lot of their time picking up informal information, much of it semi-gossip, which is vital to the judgement they make about other more formal information...

In these and other similar places we find an extraordinary synergy between telecommunications exchange and face-to-face exchange.

The rise of advanced information technology is unlikely, left to itself, to do anything for low-income people, or the communities in which they congregate. The poor lack access to the economic opportunities that advance information technologies present. This lack of access hinges on issue of transportation, education, work readiness, and computer skills.

Effective access is a multi-layered proposition, consisting of access to the “pipes,” the “affordable appliance,” the “user-friendly software,” and the “will and motivation to exploit all of the above.”

not have command of the technology become marginalized. To the extent that they have skills, those skills are devalued and their bargaining power is undermined by the changes in the production process.³⁵

C. Public Policy Recommendations

Ultimately, digital divide questions are very large social issues. The Commission's broad policies to promote computer and Internet literacy address the a part of the problem that deals with the human capital aspect of the digital divide.

The Commission should certainly monitor the market to ascertain whether equipment costs are affordable. Having finally crossed the threshold to rapidly expanding computer ownership with the recent declines in price, it would be ironic if the next generation of Internet access became unaffordable because the preferred appliance, the TV plus set top box, shifts the costs to much higher levels.

With respect to content, the Commission should extend the principles of commercial leased access and free, or low cost civic discourse channels. Support for production of new digital/broadband programming with diverse content should also be required.

The Commission should also monitor subscription and pay-per-view charges and reserve the right to require broadcasters to charge reasonable rates for pay services. Given the costs

The real barrier to entry is, in this case, not "physical capital" but human capital, which depends on education, training in computer skills, and job experience; and social capital, which consists of the formation of a network of useful business contacts.

³⁵ Schon, p. 7.

If anything, Wolpert sees advanced information technology as driving the working poor and layers of middle management out of the mainstream economy, depriving even more people of its benefits.

associated with offering digital television, it is quite possible that broadcasters will charge for programming that is now offered free. The public would strongly support efforts to keep television programming within reach of average and moderate income families.³⁶

IV. THE THREAT TO DIVERSITY AND EXPRESSION WITH A COMMERCIALLY DRIVEN DIGITAL TELEVISION DEPLOYMENT

While the digital divide affects lower and middle income groups, there is a broader concern that the powerful commercial forces that are driving the transition to the digital information age will overwhelm the public purposes served by television. The need to produce and sell commercial programming may squeeze out educational, cultural and informational programming.

A. Concerns about the Impact of Commercialization on Civic Discourse

Though it is unclear when digital TV will appear on the market in full force, consumer advocates have long been involved in debates about the content that will be aired over the revolutionary transmission medium. The transformation of TV is not only quite costly, but also a huge commercial opportunity. Afraid that the new spectrum will result in strictly revenue-making ventures by broadcasters, without regard for the public's interest in new quality

³⁶ 73 percent of voters support FCC rate regulation of pay-per-view programming; 75 percent think this is important; Lake Snell Perry, May 1999.

programming, consumer groups have attempted to ensure that Digital TV reflects beneficial public purpose.

The transformation of digital TV into a high-cost, high-powered marketing platform raises the prospect of the medium becoming even more highly commercialized than at present. This advances an ongoing commercialization that has been a source of concern.³⁷

This traditional public policy debate has its origins in the longstanding public policy of demanding socially responsible behavior from broadcasters who have used a scarce public resource – broadcast spectrum – at no charge. Although it can be argued that spectrum is no longer scarce, there is no question that it is still very valuable and broadcasters use it without paying for it. The nucleus of the debate remains the same. It focuses on broadcasters receiving their new spectrum free of charge, without restrictions in place to dictate how they can use the fresh channels and airtime. Though the FCC has required broadcasters to provide one free channel of programming, the remaining spectrum has not been regulated.

Because policymakers recognize the uniquely important role that broadcast media – radio and later television – play in the marketplace of political ideas and in forming cultural values, policymakers have rejected the notion that economics alone should decide the nature, availability, and content of political and cultural programming. Instead, policy has sought to prevent concentration of economic power from controlling the flow of ideas in the broadcast

³⁷ Winsbury, p. 4.

But we mustn't forget the enormous potential of this new technology: the world's foremost mass-market medium is being allied with mankind's largest library. It is an educational tool on a scale never previously imagined; new forms of drama, comedy and even perhaps art are waiting to be explored; it could offer a voice to all manner of voiceless groups from political parties to local communities and special interest groups; democracy could be enhanced by creating new forums for discussion on every level. It is worrisome that regulators and governments seem to be doing little to ensure that these opportunities aren't wasted. We will have to hope that companies involved in these new services take up the challenge.

media by placing limits on the ownership of media outlets and imposing obligations to expand programming beyond what is simply profitable.³⁸ In short, what is good enough in the economic marketplace has not been considered to be good enough in the political and cultural marketplace.

B. Economic Pressures on Diversity in the Media

Almost three-quarters of a century of public policy toward the mass media have been predicated on the recognition of the uniquely powerful impact of that media.³⁹ The digital communications network takes the role of the broadcast media to a higher level⁴⁰ adding interactivity to immense reach,⁴¹ real time immediacy,⁴² and visual impact.⁴³ Because it is such a potent method of information dissemination, economic control over mass media can result in excessive political power.⁴⁴ Media concentration has an impact on political activity and political

³⁸ The Federal Communications Commission, Further Notice of Proposed Rulemaking in the Matter of Review of the Commission's Regulations Governing Television Broadcasting, MM Docket No. 91-221, January 17, 1995, pp. 54-55; Hopkins, Wat W., "The Supreme Court Defines the Marketplace of Ideas," *Journalism and Mass Communications Quarterly*, Spring 1996.

³⁹ C. M. Firestone and J. M. Schement, Toward an Information Bill of Rights and Responsibilities (Aspen Institute, Washington, D.C., 1995), p. 45; Tempell, Guido H. III, and Thomas Hargrove, "Mass Media Audiences in a Changing Media Environment," *Journalism and Mass Communications Quarterly*, Autumn 1996; Gunther, Albert C. "The Persuasive Press Inference: Effects of Mass Media on Perceived Public Opinion," *Communications Research*, October 1998; *American Civil Liberties Union v. Janet Reno*, 929 F. Supp. 824 (E.D. Pa. 1996), 117 S.Ct. 2329 (1997).

⁴⁰ Shapiro, Andrew, *The Control Revolution* (Century Foundation, New York: 1999).

⁴¹ Bagdakian describes the economic and cultural impact of television as follows (p. 182):

⁴² Gigi Sohn and Andrew Jay Schwartzman, "Broadcast Licensees and Localism: At Home in the 'Communications Revolution,'" Federal Communications Law Journal, December 1994; M. Griffin, "Looking at TV News: Strategies for Research," Communication, 1992.

⁴³ Kathryn Olson, "Exploiting the Tension between the New Media's "Objective" and Adversarial Roles: The Role Imbalance Attach and its Use of the Implied Audience," Communications Quarterly 42: 1, 1994 (pp. 40-41); A. G. Stavitsky, "The Changing Conception of Localism in U.S. Public Radio," Journal of Broadcasting and Electronic Media, 1994.

outcomes because the economic interests of media owners influences their advertising and programming choices⁴⁵ -- private interests inevitably attempt to dictate the access to political information.⁴⁶

Relying on economic forces alone will not produce diversified programming adequate to create the rich political and cultural arena demanded by political discourse because the dictates of mass audiences creates a lowest common denominator ethic that undercuts that ability to deliver politically and culturally relevant diversity.⁴⁷ Technological answers do not alter the underlying economic relationships.⁴⁸ The mass-market audience orientation of the business

⁴⁴ P. C. Washburn, "Top of the Hour Radio Newscasts and the Public Interest," Journal of Broadcasting and Electronic Media, 1995, pp. 74-75.

Widespread belief in economic competition as the foundation for a genuine "marketplace of ideas" was exploited effectively by the Reagan administration and by powerful corporations such as AT&T, ITT, General Electric, CBS, Capital Cities, and IBM to eliminate much of the regulatory structure of America's communications industry.

⁴⁵ Bazelon, pp. 230-231.

⁴⁶ W. L. Bennet, News, The Politics of Illusion (New York: Longmans, 1988); J. C. Busterna, "Television Ownership Effects on Programming and Idea Diversity: Baseline Data," Journal of Media Economics, 1988; E. S. Edwards and N. Chomsky, Manufacturing Consent (New York: Pantheon, 1988); J. Katz, "Memo to Local News Directors," Columbia Journalism Review, 1990; J. McManus, "Local News: Not a Pretty Picture," Columbia Journalism Review, 1990; J. McManus, "How Objective is Local Television News?," Mass Communications Review, 1991; Price, Monroe, E., "Public Broadcasting and the Crisis of Corporate Governance," Cardozo Arts & Entertainment, 17, 1999.

⁴⁷ Bagdikian, pp. 182... 188; P. Clarke and E. Fredin, "Newspapers, Television, and Political Reasoning," Public Opinion Quarterly, 1978; M. Pfau, "A Channel Approach to Television Influence," Journal of Broadcasting and Electronic Media, 1990; D. T. Cundy, "Political Commercials and Candidate Image," in New Perspectives in Political Advertising (L. L. Kai, et. al, Eds.); G. J. O'Keefe, "Political Malaise and Reliance on the Media," Journalism Quarterly, 1980; S. Becker and H. C. Choi, "Media Use, Issue/Image Discrimination," Communications Research, 1987; J. P. Robinson and D. K. Davis, "Television News and the Informed Public: An Information Process Approach," Journal of Communication, 1990; Slattrey, Karen L. Ernest A. Hakanen and Mark Doremus, "The Expression of Localism: Local TV news Coverage in the New Video Marketplace," Journal of Broadcasting & electronic Media, 40, 1996. Voakes, Paul S. Jack Kapfer, David Kurpius and David Shano-yeon Chern, "Diversity in the News: A Conceptual and Methodological Framework," Journalism and Mass Communications Quarterly, Autumn, 1996; Carroll, Raymond L. and C.A. Tuggle, "The World Outside: Local TV News Treatment of Imported News," Journalism and Mass Communications Quarterly, Spring 1997.

⁴⁸ Aufderheide, Cable, p. 55; D. Le Duc, Beyond Broadcasting (New York: Longman, 1987); T. Streeter, "The Cable Fable Revisited; Discourse, Policy, and the Making of Cable Television," Critical Studies in Mass Communications, 1987; B. Winston, "Rejecting the Jehovah's Witness Gambit," Intermedia, 1990; N. M. Sine, et al., "Current Issues in Cable Television: A Re-balancing to Protect the Consumer," Cardozo Arts & Entertainment Law

takes precedence.⁴⁹ The introduction of new technologies has not dramatically altered diversity.⁵⁰

Empirical evidence clearly suggests that concentration in media markets has a negative effect on diversity.⁵¹ Greater concentration results in less diversity, while diversity of ownership across geographic, ethnic and gender lines is associated with diversity of programming.⁵²

Journal, 1990; A. S. Dejong and B. J. Bates, "Channel Diversity in Cable Television," Journal of Broadcasting and Electronic Media, 1991; A. E. Grant, "The Promise Fulfilled? An Empirical Analysis of Program Diversity on Television," The Journal of Media Economics, 1994. R. H. Wicks and M. Kern, "Factors Influencing Decisions by Local Television News Directors to Develop New Reporting Strategies During the 1992 Political Campaign," Communications Research, 1995; Motta Massimo and Michele Polo, "Concentration and Public Policies in the Broadcasting Industry," Lubunski, Richard, "The First Amendment at the Crossroads: Free Expression and New Media Technology," Communications Law and Policy, Spring 1997.

⁴⁹ V. E. Ferrall, "The Impact of Television Deregulation," Journal of Communications, 1992, p. 26; K. C. Loudon, "Promise versus Performances of Cable," in W.H. Dutton, et al., Wired Cities: Shaping the Future of Communications (Boston, K.G. Hall, 1987).

⁵⁰ A. S. Dejong and B. J. Bates, "Channel Diversity in Cable Television," Journal of Broadcasting and Electronic Media, 1991; A. E. Grant, "The Promise Fulfilled? An Empirical Analysis of Program Diversity on Television," The Journal of Media Economics, 1994.

⁵¹ W. R. Davie and J.S. Lee, "Television News Technology: Do More Sources Mean Less Diversity," Journal of Broadcasting and Electronic Media, 1993, p. 455; H. J. Levin, "Program Duplication, Diversity, and Effective Viewer Choices: Some Empirical Findings," American Economic Review, 1971; S. Lacy, "A Model of Demand for News: Impact of Competition on Newspaper Content," Journalism Quarterly, 1989. T. J. Johnson and W. Wanta, "Newspaper Circulation and Message Diversity in an Urban Market," Mass Communications Review, 1993; W. Wanta and T. J. Johnson, "Content Changes in the St. Louis Post-dispatch During Different Market Situations," Journal of Media Economics, 1994; D. C. Coulson, "Impact of Ownership on Newspaper Quality," Journalism Quarterly, 1994; D. C. Coulson and Anne Hansen, "The Louisville Courier-Journal's News Content After Purchase by Gannet," Journalism and Mass Communications Quarterly, 1995; Iosifides, Petros, "Diversity versus Concentration in the Deregulated Mass Media," Journalism and Mass Communications Quarterly, Spring 1999.

⁵² M. Fife, The Impact of Minority Ownership on Broadcast Program Content: A Case Study of WGPR-TV's Local News Content (Washington, D. C., National Association of Broadcasters), 1979; M. Fife, The Impact of Minority Ownership on Broadcast Program Content: A Multi-Market Study (Washington, D. C., National Association of Broadcasters), 1986; Congressional Research Service, Minority Broadcast Station Ownership and Broadcast Programming: Is There a Nexus? (Washington, D.C., Library of Congress), 1988; T. A. Hart, Jr., "The Case for Minority Broadcast Ownership," Gannet Center Journal, 1988; K. A. Wimmer, "Deregulation and the Future of Pluralism in the Mass Media: The Prospects for Positive Policy Reform," Mass Communications Review, 1988; T. G., Gauger, "The Constitutionality of the FCC's Use of Race and Sex in Granting Broadcast Licenses," Northwestern Law Review, 1989; H. Klieman, "Content Diversity and the FCC's Minority and Gender Licensing Policies," Journal of Broadcasting and Electronic Media, 1991; L. A. Collins-Jarvis, "Gender Representation in an Electronic City Hall: Female Adoption of Santa Monica's PEN System," Journal of Broadcasting and Electronic Media, 1993; Lacy, Stephen, Mary Alice Shaver, and Charles St. Cyr, "The Effects of Public Ownership and Newspaper Competition on the Financial Performance of Newspaper Corporation: A Replication and Extension," Journalism and Mass Communications Quarterly, Summer 1996.

The shift toward greater reliance on economic forces has not resulted in greater competition and has resulted in greater concentration in the many markets.⁵³ Greater concentration results in less competition.⁵⁴ There is evidence of the anticompetitive behaviors expected to be associated with reductions in competition, such as price increases and excess profits.⁵⁵

The shift toward greater reliance on economic forces has produced considerable evidence that the market will reduce public interest and culturally diverse programming.⁵⁶ News and

⁵³ Bagdakian, pp. ix-x; J. G. Blumer and C. Spicer, "Prospects for Creativity in the New Television Marketplace: Evidence from Program Markets," Journal of Communications, 1990; H. Boyte and S. M. Evans, Free Spaces: The Source of Democratic Change in America (New York, Harper and Rowe, 1986); W. H. Melody, "The Information in I. T.: Where Lies the Public Interest?," Intermedia, 1990a; W. H. Melody, "Communication Policy in the Global Information Economy: Wither the Public Interest?, In M. Furgeson (Ed.), Public Communication: The New Imperatives, (London: Sage, 1990); R. M. Entenman, Democracy Without Citizens (New York: Oxford, 1989); D. A. Graber, Mass Media and American Politics (Washington, D.C., Congressional Quarterly Press, 1993). H. H. Howard, "TV Station Group and Cross-Media Ownership: A 1995 Update," Journalism and Mass Communications Quarterly, 1995.

⁵⁴ S. Lacy, "The Effects of Intracity Competition on Daily Newspaper Content," Journalism Quarterly, 1987; S. Lacy, et al., "Cost and Competition in the Adoption of Satellite News Gathering Technology," Journal of Media Economics, 1988; S. Lacy, et al., "Competition and the Allocation of Resources to Local News," Journal of Media Economic, 1989; S. Lacy, et al., "The Relationship among Economic, Newsroom and Content Variables: A Path Analysis," Journal of Media Economics, 1989; D. L. Lasorsa, "Effects of Newspaper Competition on Public Opinion Diversity," Journalism Quarterly, 1991; S. Lacy and J. M. Bernstein, "The Impact of Market Size on the Assembly cost of Local Television News," Mass Communications Review, 1992; J. P. Vermeer, "Multiple Newspapers and Electoral Competition: A County-Level Analysis," Journalism and Mass Communications Quarterly, 1995, p. 104.

⁵⁵ M. O. Wirth, "The Effects of Market Structure on Television News Pricing," Journal of Broadcasting, 1984; J. Simon, W. J. Primeaux, and E. Rice, "The Price Effects of Monopoly Ownership in Newspapers," Antitrust Bulletin, 1986; W.B. Ray, "FCC: The Ups and Downs of Radio-TV Regulation (Iowa: Iowa State University Press, 1990); R. Rubinovitz (Market Power and Price Increases for Basic Cable Service Since Deregulation, (Economic Analysis Regulatory Group, Department of Justice, August 6, 1991); B. J. Bates, "Station Trafficking in Radio: The Impact of Deregulation," Journal of Broadcasting and Electronic Media, 1993.

⁵⁶ V. A. Stone, "Deregulation Felt Mainly in Large-Market Radio and Independent TV," Communicator, April, 1987, p. 12; P. Aufderheide, "After the Fairness doctrine: Controversial Broadcast Programming and the Public Interest," Journal of communication (1990), pp. 50-51; M. L. McKean and V. A. Stone, "Why Stations Don't Do News," Communicator, 1991, pp. 23-24; V. A. Stone, "New Staffs Change Little in Radio, Take Cuts in Major Markets TV," RNDA, 1988; K. L. Slattery and E. A. Kakanen, "Sensationalism Versus Public Affairs Content of Local TV News: Pennsylvania Revisited," Journal of Broadcasting and Electronic Media, 1994; J. M. Bernstein and S. Lacy, "Contextual Coverage of Government by Local Television News," Journalism Quarterly, 1992; R. L. Carrol, "Market Size and TV News Values," Journalism Quarterly, 1989; D. K. Scott and R. H. Gopbetz, "Hard

public affairs programming is particularly vulnerable to these economic pressures.⁵⁷ As market forces grow, this programming is reduced.⁵⁸ The quality of the programming is also compromised.⁵⁹ Thus the concern about the impetus for commercial activity provided by the new business model for digital TV is well founded in past experience with the broadcast and news media.

For example, in comments submitted separately in this proceeding, consumer organizations from throughout the country have identified a range of serious problems with the quality and breadth of local programming, including: the lack of in-depth coverage of significant consumer, disability and racial diversity issues [Massachusetts Consumer Coalition; Harlem Consumer Education Council]; unwillingness by local television broadcasters to run Public Service Announcements frequently and at times when most viewers will see them [Illinois Public Interest Research Group; Columbia Consumer Education Council]; the elimination of community ascertainment requirements and station community relations departments [Consumer Action], and the lack of programming dealing in-depth with issues of importance to particular geographic and/or racial and ethnic communities [Harlem Consumer Education Council, Arizona Consumer Council].

News/Soft News Content of the National Broadcast Networks: 1972-1987," Journalism Quarterly, 1992; Washburn, op. cit, p. 75; Ferrall, pp. 21... 28... 30.

⁵⁷ J. H. McManus, "What Kind of a Commodity is News?", Communications Research, 1992; Olson, op. cit.

⁵⁸ Bagdakian, pp. 220-221; D. L. Paletz and R. M. Entmen, Media, Power, Politics, (New York, Free Press, 1981). N. Postman, Amusing Ourselves to Death: Public Discourse in the Age of Show Business (New York Penguin Press, 1985); S. Lacy, "The Financial Commitment Approaches to News Media Competition," Journal of Media Economics, 1992.

⁵⁹ B. R. Litman, "The Television Networks, Competition and Program Diversity," Journal of Broadcasting, 1979; B. R. Litman and J. Bridges, "An Economic Analysis of Daily Newspaper Performance," Newspaper Research Journal, 1986; J. C. Buterna, "Television Station Ownership Effects on Programming and Idea Diversity: Baseline Data," Journal of Media Economics, 1988; J. Kwitny, "The High Cost of High Profits," Washington Journalism Review,

The manner in which the spectrum was rationed out has also raised concerns about it limiting diversity in the marketplace of ideas.⁶⁰ Consumer advocates argue that serving diverse interests within a community is both good business and good public policy.⁶¹ They argue that the extra capacity provided by digital transmission be used for free time for political candidates, increased children's educational programming, and public slots for independent civic discourse.⁶²

C. Public Policy Recommendations

One suggestion that has been made is to make broadcasters exchange new digital spectrum for increased public interest obligations,⁶³ possibly including some programming directed towards typically neglected population groups. Another approach would be for the FCC to institute minimum public interest requirements for Digital TV broadcasters in the areas of public service announcements and public affairs programming.⁶⁴

V. THE ROLE OF LOCAL BROADCASTING IN THE IMPLEMENTATION OF DIGITAL TV

From the point of view of television itself, local broadcasting will play a vital role in the distribution of programming. Therefore, it can play a vital role in the distribution of solutions to

1990; A. Powers, "Competition, Conduct, and Ratings in Local Television News: Applying the Industrial Organization Model," *Journal of Media Economics*, 1993.

⁶⁰ Media Access Project. *Digital TV and the Spectrum Grab of 1997*

⁶¹ *Picture This: DTV and the Future of Television*; www.benton.org/Policy/TV/digital.html.

⁶² Media Access Project. *Digital TV and the Spectrum Grab of 1997*

⁶³ Sohn, Gigi. *Pretty Pictures or Pretty Profits: Issues and Options for the Public Interest and Nonprofit Communities in the Digital Broadcasting Debate*

programming problems. Ensuring cultural diversity and socially relevant programming is a matter of local programming to meet community needs.

Many aspects of the use of personal information to market and sell goods are governed by private, corporate decisions. Federal or national policy on marketing is very “thin.” Individual corporations decide how they will market their goods and services. When they make a decision to gather information about customers, to sell directly, or advertise on specific types of programs, they are private decisions. These decisions can and should be influenced by the publics that are affected. Public reaction against a specific type of advertising or marketing practice can influence choices. In broadcast, local input should influence those corporate marketing decisions since the public is so directly affected by what are likely to be much more intrusive selling tactics.

The gathering and compilation of viewer information will be a local matter – with information gathered in the set top box and compiled by the local cable operator or the local broadcaster. It is highly likely that the local station will be the one that controls the information for marketing purposes.

From the point of view of governance, it is easier for citizens to become directly involved in solutions at the local level.

Local broadcasting is also an obvious means for the expression of social, cultural and political ideas by individuals. Local facilities are geographically accessible to individuals.

Thus, local broadcasting appears to be a natural point of entry for public policy discussion. Moreover, from the point of view of public policy, local broadcasting has a long-standing obligation to promote the public interest because of its institutional nature. Local

⁶⁴ *Picture This: Digital TV and the Future of Television*; www.benton.org/Policy/TV/digital.html

broadcasters will use digital spectrum to distribute the majority of the most watched programming. They actually control the spectrum that has been given to them. Indeed, it may be foolish to think that there is one federal policy that can solve these problems. There should be many local policies.

There is one step that is necessary at the federal level, however. Because the allocation of spectrum was a federal act, federal action is necessary to ensure that local use of the spectrum will be responsive to local demands. Federal regulators have the authority to require local broadcasters to be responsive to local needs, provide access to local programming, and work out privacy policy in response to local values. If there is no federal obligation to promote these public policy goals, local broadcasters are likely to resist because they will be caught up in the whirlwind of commercial forces that the new technology and federal policy has created.

VIII. CONCLUSION

The FCC's NOI on the public interest obligations of digital licensees comes none too soon. The economic, social and political implications of the transformation of television are extremely broad. The transformation of TV represents a major change in the commercial nature of the industry that requires aggressive policy to promote the public interest. If this public policy does not address the economic and consumer consequences of this technology, it will have failed. The FCC should expand its NOI to consider, at a minimum, implications for consumer privacy and abusive advertising. More broadly, the FCC should oversee the transition to digital television with the following essential public policy goals in mind:

- ◆ Public policy should seek compensation for the use of the broadcast spectrum, which remains a remarkably valuable input into the production of broadcast television.

- ◆ Public policy should seek to balance the powerful forces driving the commercialization of the TV industry by promoting culturally diverse programming that may not be commercially attractive but that is educational and uplifting.
- ◆ Public policy should seek to ensure that this new more powerful medium does not result in the abuse of political power by those who control it.
- ◆ Public policy should seek to ensure that the deployment of digital TV does not make the digital divide worse but ensures that policies to improve access help to reduce the divide.

3



Lulac Foundation, Inc.

March 23, 2000

The Honorable Chairman William E. Kennard
Federal Communications Commission
445 Twelfth Street, S. W.
Washington, D.C. 20554

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Attn: Ms. Magalie Roman Salas, Office of the Secretary

Re: In the Matter of Public Interest Obligations of TV Broadcast
Licensees MM Docket No. 99-360

Dear Mr. Chairman:

I am writing on behalf of the League of United Latin American Citizens (LULAC), and the LULAC Foundation. LULAC is the nation's oldest and largest Hispanic civil rights organization with 115,000 members throughout the U.S. and Puerto Rico and we would like to congratulate the Federal Communications Commission (FCC) for issuing a Notice of Inquiry (NOI) regarding the public interest obligations of digital broadcasters. This is an important first step in determining what the public can expect from television broadcasters in exchange for the free use of the airwaves. We are particularly interested in issues of diversity as they affect ownership, employment, programming and the accountability of local television stations to all of the members of the community they are licensed to serve.

The mission of the League of United Latin American Citizens (LULAC), has long been to advance the economic condition, educational attainment, political influence, health and civil rights of the Hispanic population of the United States. Since it was founded in 1929, LULAC has helped Hispanics/Latinos move toward full participation in American business and American democracy. LULAC assisted Latinos to acquire U.S. citizenship, defend their civil rights, and build political strength. We won landmark Supreme Court decisions that outlawed the poll tax and prohibited the segregation of Hispanic children in the public schools. When Mexican-Americans returned from service during World War II, LULAC helped them to secure their benefits and supported a transition to civilian life that began with new educational opportunities. Whether the transition was from field to factory, or industry to information, LULAC has been at the forefront of organizations determined to insure that no American is left behind in this transition. The current transition to digital communications is a major national shift, and given the importance of television in our society, and the merging of television and the computer,

digital television may well be at the center of this important transition. It will certainly have an impact on economic development and educational opportunity. We emphasize that it is important that the entire nation -- rich and poor, black and white, Latino and Native American, consumer and citizen -- all of us must make this transition to the digital age together.

LULAC has actively participated in numerous FCC proceedings since the early 1960's. Its petitions, briefs, and motions to deny have primarily focused on employment rights, the need for diversity in ownership, and the importance of programming which addresses the needs of minority communities. We feel that all too often, despite the merit of our cause, we have fought largely a losing battle. We simply cannot muster the financial and political strength enjoyed by the broadcast industry, given their great advantage inherent in their control of the airwaves. We have found the FCC at times to be sympathetic, but otherwise powerless or unwilling to accept its role as the protector and advocate of the "public interest."

LULAC has joined People for Better TV because we understand that no other medium — not newspapers, not radio, not cable, and certainly not the Internet — has as powerful an impact on communities in the U.S. as television. When asked where they get their information the vast majority of Americans consistently point to local television news. Hispanic respondents in a national survey by the Tomas Rivera Policy Institute (TRPI) reported nearly identical TV ownership as non-Hispanic whites with over 99 percent of their households having at least one TV, and an average of 2.3 televisions per household. Content studies of local news continue to reveal a focus on urban crime, particularly violent crime committed by minorities. Over 60% of Hispanics polled said they felt Latinos are more likely to be portrayed as being violent on English-language TV than on Spanish-language TV. Latinos also said they believe English-language TV tends to be more violent than Spanish-language television (*Tomas Rivera Policy Institute*). Recent studies also show that this myopic reporting reinforces racist beliefs, and drives people out of urban areas, undermining the economic health of cities. No one doubts the importance of television. Now we have an opportunity to make sure that television's future improves upon television's past and present.

LULAC councils throughout the United States and Puerto Rico are concerned about the way in which television serves their communities. . The LULAC Foundation recently invited LULAC members in Phoenix, Houston, Los Angeles, Chicago, and Washington, D.C. to comment on television in their area. In Houston and Phoenix LULAC members joined People for Better TV activists to monitor the programming of local broadcasters, visit television stations, and review the public records. LULAC members in Houston, and Phoenix offered these perspectives on television in their communities:

Carlos Calbillo is Director of the Video/Film Program for Talento Bilingue de Houston. In a memo detailing his recent visits to Houston broadcasters he comments that Houston broadcasters have drastically reduced their public affairs and community programming, claiming to meet their public interest responsibilities through programming produced as part of their regular news department operations. Mr.

Calbillo argues that news stories are increasingly sensationalistic and that there are relatively few stories on the positive aspects of a community.

"My argument is verified by the public file, where one can see that the station will state that they have addressed the issue of "crime" by a 6pm sensationalistic news segment on carjacking, or that a 10pm news blurb on back alley abortions satisfies their covering BOTH a "un-wed mothers" and a "crime and youth" requirement." (*Carlos Calbillo*)

Further, Mr. Calbillo questions the manner in which broadcasters conduct community ascertainment. He questions the extent to which participants in the ascertainment process are truly representative of the community and the extent to which the station allows them to engage in a meaningful dialogue about the issues which they see as important. "The invitees are overwhelmingly elected or appointed public officials; and while they presumably would have a handle on the issues, they are arguably removed from day-to-day knowledge of specific communities and specific community problems."

Johnny N. Mata chairs the Media Relations and Communications committee for LULAC District 18. Mr. Mata notes the clear and steady decline in commitment to public affairs programming by KHOU-TV, Channel 11 (CBS). Until about 1985, KHOU offered *Ola Amigos* as a weekly program serving Hispanics. In 1992, the station announced a new program, *First Sunday* which would serve all minority communities once a month. *First Sunday* aired until 1996 and Mr. Mata tells us that no other program has been offered by this station to address the needs of diverse communities in Houston. Mr. Mata goes on to say that KPRC-TV Channel 2 (NBC) has also eliminated its' Hispanic public affairs program and that KTRH-TV Channel 13 (ABC) has consolidated public service programming combining *Viva Houston*, *Crossroads*, *Vision-Asian*, and *County Line*, into one weekly thirty-minute program.

Julia Zozaya is a LULAC member from Phoenix, AZ and formerly served as the organization's first National Vice-President for Women. In a recent letter to People for Better TV she writes about her concerns over the high cost of equipment to access video descriptive services and of how few broadcasters offer this service. She writes that the only broadcaster she is aware of offering the service in her area is Channel 8, the local PBS broadcaster. She is concerned that a transition to digital technology in her area will mean buying new equipment, an expense she says many who are blind cannot afford.

Ms. Zozaya is troubled by the depiction of Latinos on television. "I am concerned that the broadcasters in my area do not fairly represent Latinos or women on television. I believe that broadcasters should do more to reach out to diverse populations as way to better serve the communities which they are licensed to serve." She goes on to write, "I previously owned a radio station and we made special efforts to reach out to diverse communities. I do not see television stations making an effort to provide real community programming responsive to the day-to-day realities in our neighborhoods."

Clearly, local television stations across the country can do better. As Congress made clear in 1996, these businesses are the beneficiaries of free federal licenses in exchange for their agreement to operate in the public interest. Somehow, too many public trustees believe they can ignore part of the public.

Contrary to what many may think, the airwaves still belong to the American people, all of them. Those few who are licensed by the FCC to broadcast television signals are authorized to do so "in the public interest." We would argue that the "public interest," is the motivating factor that justifies the license, not the amount of the broadcaster's profits. We believe that Congress, the courts, and the FCC have at times confused the two.

LULAC is concerned that there are not enough Latinos in decision-making positions within the broadcast industry and that local broadcasters are not sufficiently responsive to local Latino concerns, issues and interests. We propose that the Commission immediately begin a rule making proceeding to require all digital television broadcasters to report on their web sites job opportunities, and, if their workforce, including management, fails to comprise at least half of the makeup of the community of license, the broadcasters should report to the community through their web site on how they plan to achieve a more diverse workplace.

LULAC is concerned that the images of Latinos on television and in the entertainment industry do not accurately reflect who we are as vital and productive members of American society. We propose that the Commission immediately begin a rule making proceeding to require all local broadcasters to invite comments from a broad range of leading organizations in their community to ascertain the issues important to that community. These comments should be made available for public review on the station's web site. The local broadcasters should then be required to demonstrate on this same web site what programs they are airing to address the ascertained local issues. Broadcasters should also make clear the means which they employed to solicit comments.

LULAC is concerned that all Americans are served fairly and equally as broadcasters deploy digital technology in television. We propose that the Commission immediately begin a rulemaking proceeding to require all broadcasters to make emergency and disaster related information available in a variety of languages appropriate to the communities they are licensed to serve. While English may not be the dominant language, for many immigrants, English-language television is the primary source of news, weather, and emergency information. We believe that broadcasters could reasonably be required to scroll emergency information across the bottom of television screens which would help to alert non-English speakers of life-saving instructions.

Broadcasters have long argued that the limits of the broadcast day made it impossible to put on more programs addressing the concerns of different segments of their audience. Digital television broadcasters have the ability to send much more information, and more channels, than standard analog broadcasts. Why not use that ability to provide more service to a more diverse audience? Why not use that ability to

put on programs about the local needs and interests of minority communities at a time when those programs can be seen?

There are several ways the flexibility of digital broadcasts might better serve the needs of their communities of license. Commercial broadcast stations might multicast to make programs accessible. Programs once available only on Sunday morning might now be available at a time when a larger audience can see the program. A commercial broadcaster might serve the local community by making one of their multicast channels available for public access, educational, or government programming — much like cable. Or, borrowing again from the cable industry support of C-SPAN and Cable in the Classroom, the stations could be allowed to pay to support educational productions or public affairs programs. Another public interest service might be to provide parts of their spectrum to non-for-profit educational, health care, or community service institutions for datacasting purposes. We suggest that local broadcasters be allowed flexibility with regard to how they satisfy their obligation to operate in the public interest, but that the broadcaster be required to report regularly to the Commission and the community about how it purports to meet that public interest obligation. And, most important, that if it the broadcaster does not do something it should not be given a license. If digital television broadcasters are given free licenses in exchange for operating in the public interest, they must be truly accountable to the public.

In conclusion, these proceedings present a second chance for the commission and the broadcast industry to re-learn the lessons brought to light by the Kerner Commission Report almost 35 years ago. We feel that the findings and conclusions with respect to the broadcasting industry at that time are relevant today and we feel that each commissioner should review that report in the context of these proceedings.

We look forward to the opportunity to expand on these ideas in a proceeding to establish clear guidelines. Again, the League of United Latin American Citizens believes that such a proceeding is long past due. With councils in all of the markets now providing digital service, we would like to know what service our communities are going to receive.

Sincerely,



Eduardo Peña
LULAC Representative
to People for Better TV

cc: Commissioner Susan Ness
Commissioner Harold Furchtgott-Roth
Commissioner Michael Powell
Commissioner Gloria Tristani

4



National Association of the Deaf
814 Thayer Avenue
Silver Spring MD 20910-4500

October 25, 1999

DISABILITY ACCESS TO DIGITAL PROGRAMMING¹

Introduction

In recent years, Congress has taken bold steps to ensure access to communications technologies by individuals with disabilities. For example, in 1996, Congress enacted Section 305 of the Telecommunications Act, which, for the first time in our nation's history, requires comprehensive closed captioning of television programming. Earlier, in 1990, the Legislature enacted the Television Decoder Circuitry Act of 1990, requiring that new television technologies, including digital technologies be capable of transmitting closed captions to viewing audiences.

Consistent with the above legislative acts, broadcasters who are now entering the digital age should be required to take advantage of increased bandwidth as well as other emerging features of digital technologies that can serve to enhance access to digital TV for deaf and hard of hearing Americans. Below are a series of recommendations to expand disability access in the digital era.

¹ Much of the text contained in this statement appears in the final report released by the Gore Commission on December 18, 1998.

Closed Captioning

The Telecommunications Act of 1996 mandates that broadcast and cable programming be fully accessible through the provision of closed captioning.² Last year, the Federal Communications Commission (FCC) promulgated regulations to implement Section 305, requiring 100 percent of new television programming to be captioned over an eight year period, and 75 percent of “pre-rule” programming to be captioned over a ten year period.³ The obligation to provide captioning access will, of course, continue into the digital era. The 1990 Television Decoder Circuitry Act requires that new television technologies, such as digital technologies, be capable of transmitting closed captions.⁴ Passage of both the TDCA and Section 305 reflect Congress’ strong intent to ensure that our nation’s twenty eight million Americans who are deaf or hard of hearing continue to receive access to televised news, information, education, and entertainment in the digital age.

Digital technology will open new avenues to enhance and expand captioning access. For example, the ability to alter the size, font, color and placement of captions will enable viewers to customize their captions for enhanced viewing. In July of 1999, the FCC proposed a standard for the receipt and display of closed captions by digital television equipment. Unfortunately, as

² Section 305, Telecommunications Act of 1996, Pub. L. 104-114, 110 Stat. 56 (1996)(codified at 47 U.S.C. 613).

³ The FCC exempted certain programming from its captioning mandates. The 75 percent requirement for “pre-rule” programming refers to programming that was first exhibited or produced prior to January 1, 1998, the effective date of the FCC’s captioning rules.

⁴ Pub. L. No. 101-431, 104 Stat. 960 (1990) (codified at 47 U.S.C. 303(u), 303(b)).

drafted, this standard falls short of enabling viewers to take advantage of all of the features that new digital technologies have to offer. The proposed standard would require only one font, one size, and one stream of closed captions. In contrast, new digital technologies would enable caption viewers to fully control caption fonts, sizes, colors, and backgrounds, and would permit decoding and processing of six standard services and up to fifty seven additional extended services. Many of the new digital features are expected to provide maximum choice and quality for caption viewers, so that the captioning they enjoy in the digital age will be functionally equivalent to audio transmissions. The FCC's final digital captioning standard should enable viewers to fully exploit the versatility of these new digital technologies.

The FCC's rules on captioning currently exempt certain categories of programming, including advertisements under five minutes, certain late-night programming, and certain local non-repeat programming.⁵ In addition, the rules require only certain networks and providers to caption their news programs with real-time captioning, a method that ensures simultaneous captioning of full newscasts. The vast majority of stations are permitted to continue utilizing a lesser effective method, the electronic newsroom captioning technique (ENCT). With ENCT, viewers see text from the teleprompter for pre-scripted portions of the show. For this reason, ENCT misses significant portions of news programs, including late-breaking stories, sports and weather updates, and field reports.

The various gaps that now exist in the FCC's rules should be closed in the digital age. Captioning costs are expected to drop, as demand increases and caption technologies improve. In particular, a basic principal in the digital age should be that where obligations are imposed on

⁵ 47 C.F.R. 79.1(a)(1).

networks to provide PSAs, public affairs programming, and political discourse, there should be an accompanying obligation to caption those programs. Otherwise stated, a broadcast station should be required to provide closed captioning of all of its PSAs, public affairs programming, and political programming, to ensure that deaf and hard of hearing Americans can be part of the informed electorate.

As stations switch to digital programming, they should also be required to provide real-time captioning for all of their news programming. Section 305's mandate to provide full television access can only be met with real-time, up to the minute captioning of newscasts. Most importantly, the FCC should require all digital broadcasters to provide real-time captioning access for all televised information about emergencies and disasters.

Video Description

Section 305 of the Telecommunications Act also directed the FCC to conduct an inquiry into the provision of video description on video programming.⁶ Video description provides a verbal narration of key visual elements in a television program, to allow blind and visually disabled viewers to follow along with a program's story line. The verbal descriptions provide access to visual information such as settings, gestures, action, graphics, subtitles, and costumes. The narration is inserted into natural pauses in the program's dialogue in a manner that does not interfere with the original audio of the program. Utilization of video description as a form of providing access has been hindered by the analog standard, which only permits delivery of descriptions via the secondary audio program channel. In contrast, digital technology offers multiple audio channels, with significantly greater bandwidth, that can more easily and

⁶ Communications Act of 1934, 713(f), codified at 47 U.S.C. 613(f).

inexpensively accommodate video descriptions. Broadcasters should be required to allocate sufficient audio bandwidth for the transmission and delivery of video description in the digital age, in anticipation of expanded use of this access technology. Toward this end, the Commission should require that all digital TV receivers support simultaneous multi-channel audio-decoding capability so that descriptions can be delivered separately from a program's main audio. Such dual decoding capability will require less bandwidth – as it will not need to include the main program audio as well – and will reduce the costs of the description process by eliminating the need for professional audio mixing of sessions. Finally, the FCC should establish a schedule for digital broadcasters to begin providing video description for their programming.

Ancillary and Supplementary Services

In addition to providing high definition and/or multiple streams of television programming, new digital compression technologies promise an array of ancillary and supplementary services, including the rapid delivery of huge amounts of data, interactive educational materials, and other video subscription or non-subscription services. It is critical that the needs of individuals with disabilities not be ignored with the advent of these new technologies. The provision of these new ancillary services can open a world of opportunities for individuals with disabilities who are seeking full participation in our society. The resulting greater access in employment, education, recreation, and other areas can provide significant benefits to individuals with disabilities and to society as a whole.

Recent rules issued by the FCC to implement Section 255 of the Telecommunications Act require manufacturers and providers of telecommunications products and services to provide access to their products and services by individuals with disabilities, if readily achievable. These rules recognize that it is easier and less expensive to make products and services accessible when

they are designed with access in mind. It is a logical extension of the access laws described above to require broadcasters to provide disability access to the ancillary and supplementary applications provided over their digital television streams, where doing so would not impose an undue burden. (The undue burden standard already applies to existing closed captioning mandates.) Among other things, this would entail requiring a text option for material that is presented orally and an audio option for material otherwise presented visually. Similarly, the FCC should ensure that the provision of ancillary and supplementary services does not impinge upon the 9600 baud bandwidth currently set aside for captioning of digital programs.

Digital Equipment

Finally, the FCC and other regulatory authorities should work with set manufacturers to ensure that modifications in audio channels, decoders, and other technical areas be built to ensure the most efficient, inexpensive, and innovative capabilities for disability access. Amongst other things, this will include requiring DTV manufacturers to take full advantage of new digital technologies, so that viewers are able to control the font, size, color, placement, and other characteristics of closed captions.

Statement submitted by:

Karen Peltz Strauss

Legal Counsel for Telecommunications Policy
National Association of the Deaf,
Prior Member, Advisory Committee on Public Interest Obligations of Digital
Television Broadcasters (“Gore Commission”)

Joined by:

American Association of the Deaf-Blind
American Athletic Association of the Deaf
American Deafness and Rehabilitation Association
American Society for Deaf Children
American Speech-Language-Hearing Association

Association of College Educators: Deaf and Hard of Hearing
Association of Late Deafened Adults
The Caption Center (WGBH)
Conference of Educational Administrators Serving the Deaf, Inc.
Convention of American Instructors of the Deaf
Deaf Women United, Inc.
Gallaudet University Alumni Association
Jewish Deaf Congress
League for the Hard of Hearing
National Association of the Deaf
National Black Deaf Advocates
National Court Reporters Association
National Fraternal Society of the Deaf
National Hispanic Council of Deaf and Hard of Hearing People
Registry of Interpreters for the Deaf, Inc.
Telecommunications for the Deaf, Inc.
World Institute on Disability

TAKU



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Andrea Lee
National Organization for Woman (Greater Boston Chapter)
Boston, MA
3/2/00

Catherine Bell (Somerville, MA - 3/2/00)
Pilar Dellano (Boston, MA - 3/3/00)
Lauren Fogarty (Boston, MA - 2/25/00)
Natalie Gallant (Boston, MA - 2/29/00)
Rachel Hull (Boston, MA - 2/28/00)
Andrea Kelly (Boston, MA - 2/28/00)
Alexandra Miller (Boston, MA - 2/29/00)

Cesar McDowell
Newton, MA
3/1/00

Allen Perez
Cambridge, MA
No date on letter

Dr. W. Curtiss Priest
Center for Information, Technology & Society
Melrose, MA
2/29/00

Steve Provizer
Citizen's Media Corps.
Allston, MA
2/29/00

Paul Schlaver
Massachusetts Consumers' Coalition
Cambridge, MA
2/29/00

March 2, 2000

Mr. William Kennard
Federal Communications Commission
445 12th Street, NW
Washington, DC 20554

Dear Mr. Kennard,

We are writing on behalf of the Board of Directors of the Greater Boston Chapter of the National Organization for Women (NOW) to express our concern for the current use of the public airwaves. When Congress gave away the digital spectrum to the major media broadcasters for free, it put a condition on its gift: that the broadcasters use these airwaves to "serve the public interest." However, currently there is no definition of what the terms "in the public interest" mean. In absence of a clear definition from the FCC, the major broadcasters have defined these terms and what constitutes compliance with Congress' mandate for themselves. Because Greater Boston NOW is passionate about regaining true community use of public airwaves, interns and activists monitored locally produced programming and visited local television stations in order to determine whether these stations are fulfilling this commitment.

Unfortunately, the results did not demonstrate that the broadcasters are fulfilling their commitment. Although our researchers were pleased with some of their findings, they found many areas in which these stations could make better use of their public airwaves. Particularly, our researchers found that broadcasters:

- * Failed to fairly represent women and minorities in their programs.
- * Broadcast local programming that did not always focus on local issues and concerns and was almost never positive in content
- * Lacked truly truly educational programming.
- * Had almost no programming for children under six.
- * Offered only a few shows for children between the ages of six and eleven.
- * Claimed to satisfy their "public interest" requirement with offerings of short, two to three minute shows.
- * Perpetrated stereotypes of women and racial minorities.
- * Did not adequately respond to viewers.

We at NOW believe that in exchange for free use of new digital technology,

broadcasters should, as promised, provide us with programming that "serve[s] the public interest, convenience, and necessity." This includes offering "public interest" programs comparable in length and depth to the sit-coms, dramas, and cartoons that are offered, instead of the current length and depth that is more comparable to the average commercial. It also includes better compliance with the Children's Television Act and an end to racial and sex stereotyping in the shows offered.

Only with clearer guidelines can the public truly be guaranteed that the airwaves, its property, will be used in its interests. Therefore, we urge the FCC to immediately begin rule-making sessions to determine the public interest obligations of broadcasters. Further, we encourage you to utilize the recommendations for these guidelines that People for a Better TV has offered as you begin this process (see attached).

Thank you for your consideration.

Sincerely,

The Greater Boston NOW Board

Andrea Lee, President

Rebecca Pontikes

Toni Troop

Vivienne Esrig

Jo Trigilio

Judith Gondelman

Constance Kowtna

Jeanette Mihalek

Sharon Winston

Jen Alt

Bonnie Mulliken

Cortney Harding

Date: Thu, 02 Mar 2000

From: Natalie Gallant <ngallant@bu.edu>

March 2, 2000

William Kennard, Chair
Federal Communications Commission
445 12th Street, NW
Washington, DC 20554

Dear Mr. Kennard,

I believe that television is unique in its potential to educate and inform, its potential to add to the overall health of our society. I also believe that television plays an integral role in the propagation of many potentially harmful cultural norms and beliefs, including limiting gender roles and racial and ethnic stereotypes. One gauge for measuring television's contribution to the public interest is the public file that each broadcasting station is required to maintain.

As an advocate for women's rights and a concerned citizen, I decided to examine the public file of ABC Channel 5 in its Needham, Massachusetts office. I arrived at the office at approximately 1:30 on Thursday, February 24. Myself and a fellow activist were shown to a receptionist at the front desk and told her that we wished to view the public file, knowing that we had the right to see this file without an appointment during any working day.

After some confusion, the receptionist called in a station employee who showed us to a group of files containing information about political candidates. We explained that we wanted to view the files that contained information about public interest programming. This explanation was met with more confusion on the part of several station employees. Finally, after much discussion with his fellow workers, the employee showed us back out to the waiting room and told us to wait there. Approximately fifteen minutes later, he returned to tell us that the person who maintained the public files was away and her assistant was out -- we would not be able to view them that day. He gave us the contact information for the aforementioned employees and sent us on our way.

I was disappointed in the reception that my companion and I received at ABC Channel 5. Expecting to have free and easy access to files maintained specifically for public view, we were met with disorganization, confusion, and inconvenience. The employees and receptionist were not able to sufficiently recognize our request even when we produced an FCC document mandating open access to the public files.

One way to ensure that television is truly used in the public interest is to require a rigorous standard of accountability of broadcasters. I respectfully request that digital broadcasters be required to disclose their public interest programming on a regular basis and in comprehensible form. I also request that broadcasters be required to regularly report to the public on their efforts to reflect the racial and ethnic diversity of the United States.

I hope that the Federal Communications Commission will work with the citizens of this country to ensure that television is used to improve, and not weaken, the foundations of equality upon which our nation rests.

Sincerely,

Catherine Bell
National Organization for Women
Somerville, MA

Date: Fri, 03 Mar 2000 19:05:10 -0500

From: Natalie Gallant <ngallant@bu.edu>

William Kennard, Chair
Federal Communications Commission
445 12th Street, NW
Washington, DC 20554

Dear Mr. Kennard,

I recently visited WCVB television station in Boston, Massachusetts. It is an ABC station located at 5 TV Pl., Needham Branch, MA, 02494. The purpose of my visit was to examine the public file as a consumer and an activist for the National Organization for Women. I am writing to report on the state of programming in the Boston area.

The people of this area are concerned that local television does not reflect either the great diversity or the concerns of the community.

When I visited the station I called ahead to make sure that I would have access to the file, yet when I arrived the receptionist denied any such call. After several minutes I and another activist were shown into an office and asked to sign a 'statement of access' before we saw the file.

I examined e-mail and mail files for the station and found a number of complaints saying that the station had trivialized the issue of domestic violence and restraining orders in a news broadcast. As a woman and activist for NOW, this concerns me greatly. Domestic violence is one of many issues that the community could be educated about through local television. For such an influential media force to trivialize this issue is simply wrong.

Also in the public files was an issues program list, detailing network and local programming devoted to issues of concern for the community. These programs covered a vast range of issues, including local news, crime and public safety, economics, taxation and the cost of living, children, youth, and family, health and human services, social justice, and urban environment. I applaud WCVB for their efforts at covering these issues, but the absence of a file for women's issues or gay and lesbian issues means that there are still important stories that aren't being covered here.

The rest of the public file was divided into six sections, including an FCC file on children's programming with education content, commercial compliance certificates, non-broadcast community outreach, information for children's website pages, a log of local children's report slots, and a log of all Saturday programming schedules. WCVB is complying with current FCC rules, but it is my contention that these rules are not enough.

The airwaves belong to all of us. The FCC has the power to ensure that our public airwaves are being used in our best interest. I would like to suggest that you hold public rule-making sessions so that I and other community members can have a chance to help you to know what we find in our interest.

Sincerely,

Pilar Dellano
National Organization for Women
Boston, MA

February 25, 2000

William Kennard, Chair
Federal Communications Commission
445 12th Street, NW
Washington, DC 20554

Dear Mr. Kennard:

I am a concerned citizen writing about the lack of positive images of women and people of color on television. It is to my understanding that on May 1, 1999, television broadcasters in major cities across the United States began implementing the use of digital television signals. I am interested to find out what responsibilities broadcasters will be required to assume in exchange for the free use of our airwaves.

I was recently watching Chronicle, a local program on ABC (Channel 5) at 7:30 pm on February 10, 2000. It ran for half an hour. There were approximately 4 commercials between every story. All three of the program's segments dealt with brutal murder to some degree. This program did not consult one female when interviews were shown with professionals, doctors, or police officers. In fact, all of the interviews were with white men. I feel this program does not accurately portray the variety of professional positions that women and people of color hold in our society. But this is not surprising, given that, "87 % of the guests on Sunday public affairs programs are males." This is why I feel it is necessary to issue guidelines for television stations--because on their own, these stations continue to perpetuate the stereotype that the only experts are white men.

Myself and fellow television viewers have urged you to begin holding public rule-making sessions so we can let our voices be heard concerning public interest obligations, specifically women's access to and images in the media. The airwaves, a public resource that we have simply given away, are valuable and I expect some accountability from those who are using them.

Sincerely,

Lauren Fogarty
National Organization for Women
Boston, Massachusetts

February 29, 2000

William Kennard, Chair
Federal Communications Commission
445 12th Street, NW
Washington, DC 20554

Dear Mr. Kennard,

I am a NOW activist, a television viewer, and a concerned citizen. I am well aware that the 1996 Telecommunications Act gave television stations access to digital technology to broadcast over public airwaves as long as they "serve the public interest, convenience and necessity." However, I am not at all clear on what the definition of these terms are. I have also not heard of any hearings scheduled to discuss guidelines of this requirement. This, as far as I can tell, leaves broadcasters in charge of deciding what is in the public interest. It does not seem fair to me that such important intricacies be left to profit-driven corporations, most of which are now parts of major media conglomerates.

Curious as to what one of these stations considers a fulfillment of these guidelines, I visited NBC (channel 7) to examine its public record. At about noon on February 28, 2000, a fellow NOW volunteer and I went to the station located at 7 Bullfinch Place in Boston.

We viewed the fourth quarter reports for 1999 that listed children's programs, public service announcements and other broadcasts that were geared toward "community needs and interests." We also examined a file that contained viewer responses.

The staff was friendly and seemed eager to help, however no one in the offices that surrounded the room where the file was kept seemed to know very much about the record. For example, there were check marks on about half of the viewer responses in the file. When we inquired what they meant, three people had to be asked in order to find the answer--that the check marks were an indication that the letters had been answered. This led me to wonder why only half of the letters had been checked.

There was also some content in the file that I found particularly noteworthy. In the report for children's programming, it was interesting to see that there was no programming listed for children under the age of six. In fact, there was only one program, "Awesome Adventures," listed for children under the age of eleven. Incidentally, "Awesome Adventures" was the only show that adhered to the limited number of commercials allowed by the Children's Television Act of 1990. The other shows described as children's programs all targeted ages thirteen through sixteen and therefore were not subject to these guidelines.

Also contained in this report was a list of programs that were considered educational and for a general audience. It astounded me that there were only two programs listed for October through December. This was a total of only three hours in three months! I found it even more surprising that one of the three hours counted as educational was an episode of the comedy/drama program called "Freaks and Geeks." It is difficult for me to understand how one third of the educational programming listed on a station's quarterly report is a show about teens having a keg party. Though the show may be entertaining and this particular episode did send a moral message to teens, I do not think that I would put it in the same category as the two-hour National Geographic special that filled the other two educational hours for NBC in the final months of 1999.

NBC is doing exactly what you are allowing it to do--making its own rules. The FCC has set a limit on the number of commercials that can be shown during children's programming. It does not seem coincidental that NBC gears all of its programming toward an older audience and in effect, avoids said standard. It is decisions like these that make me question a station's ability to judge what is in the "public interest, convenience and necessity."

This is why I and so many other television consumers are urging you to schedule public rule-making sessions. We would like to have a say about what is broadcast over the valuable airwaves that belong to all of us.

Sincerely,
Natalie Gallant
National Organization for Women
Boston, Massachusetts

February 28, 2000

William Kennard, Chair
Federal Communications Commission
445 12th Street, NW
Washington, DC 20554

Dear Mr. Kennard,

As a concerned consumer and an activist for the National Organization for Women, I visited the Boston CBS Station WBZ on February 23, 2000 at approximately 1:30 PM. Managed by Edward Goldman, it is located at 1170 Soldiers Field Rd, Boston, MA 02134. Television in the Boston area, especially with the use of digital signals, has the capacity to do great things for our diverse community. I did not see that happening in my visit. As Congress has given control of the airwaves over to the networks for free, they have the responsibility to use them for the greater good of the public they serve. Stations like WBZ currently keep careful records of what they call "Significant Programming" which is supposed to prove that they are making good use of the resources we have given them. The content of the "Significant Programming" file shows that WBZ simply isn't doing enough for the community.

Lack of programming addressing local issues and women's issues is especially disturbing. Most of these "programs" are actually 2-4 minute spots within a full day's worth of more common shows featuring violence and overflowing with negative race and sex stereotypes. What WBZ is doing is mostly positive, but they aren't doing enough.

The "Significant Programs" file is updated quarterly and the report I examined was dated December 31, 1999. It consisted of a list of descriptions of programs that the station considered significant, and each description included the length of the program and what time it ran on a weekly basis. A more specific list, detailing the exact topic for each week, was included at the back of the report. Included in this were such programs as "Consumer News", "I-Team Investigative Reports", "For Your Health", and "Centro". All of these programs were produced locally and lasted from two minutes to four and a half minutes, and are broadcast between one and ten times a week.

Other shows included in the Significant Programming file are nationally produced shows like Face the Nation, 60 Minutes, and 48 Hours. Detailed descriptions of the stories that WBZ felt were significant are included along with dates of broadcast.

The most interesting of the locally produced shows is "Centro", described as an "in-depth" exploration of Latino community issues. This seems like exactly the kind of programming the FCC wants to encourage: locally produced, informative, and of real interest to community members. However,

there is some question about how "in-depth" a program can be that only lasts four and a half minutes, and although no figures were provided, it seems unlikely that very many people see a program that airs once a week on Saturday at 7:50 AM.

Records from 1998 include a show called "Rap Around", a half hour show featuring discussions of relevant issues by and for teens aged 16 and under. This show used to air at 1 PM on Saturdays; unfortunately, this show featuring real teens and real issues seems to have disappeared from the WBZ schedule.

The "Significant Programming" file is legible and up-to-date, but its contents leave something to be desired. There is a dearth of locally produced programming that lasts longer than the average commercial break included in the WBZ lineup. Although the short programs listed seem to be of interest to the community and in the spirit of "public good", it simply isn't enough. Shows like "Centro" that are only minutes long could certainly be expanded, and shows of a similar nature reaching out to other ethnic groups in the area would be of interest to WBZ viewers.

"I-Team" claims to include local political news and is aired 10 times a week, but it is only 2-4 minutes long. Boston politics could easily fill an hour-long show every weekend, and such a show, if designed to highlight different areas of the city, would fill a gap in local news coverage.

Although WBZ is currently doing an adequate job, improvements could be made in scheduling. More local shows and community outreach can reasonably be expected from a station that receives such broad support from its viewers and liberal use of public airwaves. That is why I ask that you begin scheduling public rule-making sessions--so that myself and other community members' voices may be heard. The airwaves belong to all of us, and I would like to see that what is aired over them benefits all of us.

Sincerely,
Rachel Hull
National Organization for Women
Boston, Massachusetts

February 28, 2000

William Kennard, Chair
Federal Communications Commission
445 12th Street, NW
Washington, DC 20554

Dear Mr. Kennard,

As a television viewer I am concerned about the quality of the programming presented to myself and other viewers. I would like to share my findings with you in an attempt to convince you that television stations need enforced guidelines so that they live up to the obligation of filling the "public interest, convenience, and necessity."

I decided to watch NBC's locally produced programming to see if I thought this particular station was fulfilling this requirement with regard to my local community--the city of Boston. Two programs that I watched, "Revista Hispana" and "Higher Ground," air from 6 to 6:30 on Sunday mornings. They are two of four programs that fill this time slot once a month. Each of these programs focuses on a particular minority group.

"Revista Hispana," which was on February 20 this month, is a program for the Hispanic population of Boston and is broadcast mostly in Spanish. Although I think this is a good idea, I think that it would be helpful to have a translation at the bottom of the screen so that English speaking Bostonians have a chance to learn about their Hispanic neighbors. A show like "Revista Hispana" could be used as an important tool in helping the Caucasian population to understand the issues that are pressing in minority communities. The people on the show consisted solely of Hispanic men--no women, Caucasians, or other minority groups. Though I think that having a show devoted to a particular minority group is important, I found it particularly disturbing that there were no Hispanic women on the show. Also seeing how these individuals interact with other groups could be important as well.

"Higher Ground," which I viewed on February 27, focuses on African American issues, and while they showed clips from interviews with men, the primary person that was being interviewed was female. The person conducting the interview was also female. I was pleased with this show and its dedication to minority views and values. I was also impressed that they not only included women in their broadcast, but had a woman leading the discussion.

Also on February 20 and 27, I attempted to view the two local programs Boston Common and Urban Update. These programs are scheduled at 11:30 a.m. and 12:00 p.m. respectively on Sunday. I succeeded in watching Urban Update on both Sundays. I was very disappointed to find however, that due to the broadcast of an NBA pre-game show on February 27, Urban update was shown at 11:30 and Boston Common was not on at all. On February 20, Urban Update dealt with the some important issues for the minority population of Boston, especially the African American population. It talked mostly about inner city happenings including urban housing, and an interracial Karate program. Boston Common, on the other hand, talked about more universal issues, like the changing structure of families, yet only had Caucasian representatives on the panel to discuss these issues. There were two women on the panel but not one representative of a racial minority. Because the show did bring up multicultural issues, I believe that it would have been more than fair, and in fact quite interesting, to include a person of color on the panel.

The next Sunday, February 27, Urban Update was again geared to the African American audience. The show was mostly about the life of Duke Ellington, legendary African American band leader. I was disappointed when two women who spoke at the beginning of the show, were all but abandoned later in the show when the focus was shifted to interviews only of men.

Though I have seen a few examples of fair representation of women and minorities on February 20 and 27, in general what I have seen in the publicly produced broadcasts of NBC Sundays is inconsistent representation of these groups. I also found it unsettling that people in my community cannot even rely on being able to see these publicly produced programs when they are scheduled. It is for this reason that I think the FCC should begin conducting public rule-making sessions so that myself and other television consumers may voice our opinions about what we believe is in our interest for broadcast over our airwaves.

Sincerely,

Andrea Kelly
National Organization for Women
Boston, Massachusetts

February 29, 2000

William Kennard, Chair
Federal Communications Commission
445 12th Street, NW
Washington, DC 20554

Dear Mr. Kennard:

Local news programming is an extremely important way in which the public can learn about community happenings and concerns. Upon viewing two local programs recently, I became concerned that local television is not focused enough on local events and that they too often dwell on negative issues.

“Five on Five,” a locally produced weekly ABC program that airs on Saturday, ran a show on February 13, 2000 that talked about a murder in Rhode Island, Hilary Clinton’s Senate run and hate speech in pro sports. While these topics may be interesting and are certainly timely, they are covered in national news shows. They do not really fit the description of local and therefore should not be included in a broadcast of a show like “Five on Five.”

“Chronicle” is another locally produced ABC program that airs every night from 7:30-8:00. On its February 10, 2000 show, it talked about three local murders. Again, interesting and timely, but on a program that runs for half an hour, perhaps “Chronicle” could have balanced this negative local news with coverage of some positive community happenings or non-violent community issues.

Another concern I had with both of these programs was the commercials each one contained. Obviously, stations need the financial support they get by airing commercials. However, I must ask myself what kind of control these advertisers have over the content of such programs. During these are local news programs, I would have expected to see more public service announcements, for they would seem more connected to the purpose of the programs. Perhaps paid commercials including those about furniture and car dealerships should be left for broadcast during network programming.

The power of television should be used to expand people’s perceptions about the political, social, and cultural climate they live in; it should not dramatize, exploit or ignore it altogether. And above all this power should not be taken for granted. People should be able to see a fair representation of the world they live in, especially on the locally produced programming of their area. That is why I request that you hold public rule making sessions so that people can have a say about what is broadcast over our valuable airwaves. They belong to all of us!

Sincerely,
Alexandra Miller
National Organization for Women
Boston, Massachusetts

Ceasar McDowell
986 Walnut Street
Newton, MA 02461

March 1, 2000

William Kennard, Chair
Federal Communications Commission
445 12th Street, NW
Washington, DC 20554

Dear Mr. Kennard:

Re: Comments on Digital Television

Television has been and will continue to be an important aspect of American culture. As such we are obligated to think carefully about the public service function of television and correspondingly, the public service obligations of television broadcasters. This obligation not only derives from the role of television in our society but also from broadcasters use of the airwaves which belong to the public. It is these obligations that I wish to address in these comments.

First a few things about myself and the context from which I make these comments. I have been associated with the worlds of media, education and community advocacy for almost 30 years. I have served as an Associate Superintendent of schools, and documentary filmmaker, and academic and the founder of several community-based organizations. But perhaps the most important perspective I bring to this issue is that of an African-American parent who has raised two children in this media rich age. These experiences have provided a specific lens through which I view and understand the public interest role of television in my own community (Boston) and the larger society.

When I first thought of submitting comments to the FCC, I started to pay particular attention to local broadcast behavior. This meant viewing news shows, the very few locally produced shows and of course the network shows. However, it became clear to me that I would not be able to mount a comprehensive review of current practice in order to bolster my position. What I

have decided to do instead is present you with a look at the issues that emerge for me as I engage the media in my daily life.

There are a few specifics that inform my advocacy for the public interest obligations of broadcasters. The FCC has a responsibility to the public to insure that the use of public resources for private interest returns some advantage to the general public. This I refer to as the public interest obligation. Moreover, in addition to the public's ownership of the airwaves, the sheer power of broadcast media in sustaining and building democracy also requires some public interest obligations. These obligations fall into three categories. One category is related to informing the public, another is to do no-harm to the public, and the final category is to support civic engagement.

I believe each of these categories has specific rules that can insure that broadcasters met their public service obligation.

Informing the Public

A few weeks ago a colleague took on the task of visiting several of the local TV stations in the Boston area to view their public record. Her visits provided her with a first hand experience of the ease and difficulty for the public to get information on how well stations are serving the public interest obligations. What was most apparent from her visit was that while the station keep a public file, the organization of the information and the presentation of the information made it relatively useless. Broadcasters need to be in relationship with the public. Moreover, the information they provide the public should be accessible to all of the different types of people who make up the public. I therefore recommend the following:

1. Ascertainment information and station compliance with the ascertainment process should be reported on a quarterly basis. The reporting should be available through the Internet, electronic subscription and through publication in the community's paper of record as well as the various ethnic presses.
2. All programming should be closed captioned and with descriptive services for the blind. This should particularly apply to any programming activity that is designated as fulfilling public interest obligations.

Doing No Harm

Three weeks ago in Providence, RI police mistakenly shot and killed an African-American policeman. The story headlined every news show in the greater Boston area. A week later in Newton, MA, a fire in an office complex left 5

people missing. It took 3 days to recover the bodies. In covering both of the stories every TV news program thought it important to not only cover the "facts of the story" but they also felt obligated to intrude on the personal loss of the family members. So intense was the intrusion that one family was featured night after night as they stood vigil over the recovery effort. The same was true with the family of the slain police officer.

This tendency to not allow people the dignity of their own grief is a form of voyeurism that does not rate as news coverage but instead is a sensationalism that robs grieving family members of a sense of privacy. It is uncalled for and adds nothing to our understanding of the story nor does it assist the family in its grief. These are just two examples of the way in which a broadcaster can "do harm". While it is hard to imagine regulatory structures that could minimize this particular harm, there are clear regulatory steps that can protect the most vulnerable in our society: Children.

1. Children should be protected from undue advertising; especially advertising that is disguised as programming.
2. There should be an independent rating system to assist parents and others in making accurate choices about their viewing habits. Digital broadcasters should be required to post ratings as to the sexual and violent nature of programming.
3. With the potential of digital technology to combine broadcast, telephone and Internet services, broadcasters must be required to protect the information of users. Accordingly consumers should be invested with the power to prevent the collection and sale of information related to their personal profile and their program or product choices.

Civic Engagement

In reviewing the public file from two stations it is clear that stations fulfill their public interest obligations by piecing together unrelated and often non-local programming. As a result, one station counted PSA for UNCEF, to MADD as their public service activity. While such PSA's are valuable they indicated that the stations are not inclined to build a comprehensive approach to keeping the public informed, especially on local issues. This nonchalant approach to civic engagement only serves to distance the public. This is further exacerbated in this election year. While every station has numerous stories on the presidential campaign, not one of our stations has an ongoing show for gathering and/or informing public discussion on the issues that should inform this election. Accordingly, the public is treated as a sidebar to the presidential race rather than the main player in a democracy. Accordingly, I recommend that:

1. Digital broadcasters should be required to set-aside channel space for non-commercial use. These channels should be used to support public service. The allocation of these channels should not relieve broadcasters of the primary public service obligations.
2. Digital broadcasters should be required to expand their public affairs programming to at least one hour per day per channel. In addition, broadcasters should use this opportunity to specifically create programs at the local level that open dialogue among the various populations of the communities.
3. Any broadcaster should be required to reflect the diversity of this nation in their programming, hiring, and management.

Finally, the most important request. If the FCC does not convene hearings it will serve to silence those of us concerned with these issues. More important, it will prevent the FCC from truly hearing the voice of the American people. I respectfully request that the FCC convene hearings on the public interest obligations of digital broadcasters.

I offer these recommendations in the hope that the power of digital television can be used to benefit the public interest. I believe that these recommendations and those offered by organizations like Citizens for Better TV can help us create a media system that is both responsive to the public while simultaneously profitable to the industry.

I thank you for your time and look forward to your announcement of the hearing process.

Sincerely,

Ceasar McDowell

Allen Perez
5 Walden Street, #3
Cambridge, MA 02140

Federal Communications Commissioners
Federal Communications Commission
445 12th Street, NW
Washington, DC 20554

Dear Commissioners,

My name is Allen Perez and I am a member of two communities in Boston that local broadcasters underrepresent: the "Latino" and "liberal religious denominations" communities. I pose these two questions to the FCC, why is it that I must turn to Channel 19 to view local and international news for topics of interest regarding the Latino communities and why do local broadcasters neglect the valuable resources of the church when addressing issues of local interest? I have simple answers to these questions. Local broadcasters do not care and are not putting efforts into these areas. Most of the major local stations do not even have a community liaison like a community service director or coordinator. Public relations directors are far too busy handling the stations' reputations to truly be effective at the community level. An evening of watching my local broadcast stations reveals these findings which exemplify the above mentioned point:

3/29/00

Channel 7 News: not a single mention of Latino issues. (11pm news)

3/29/00

Channel 4 News: not a single mention of Latino issues. (Evening news)

4/02/00

Channel 5 News: not a single news of Latino issues. (Morning news)

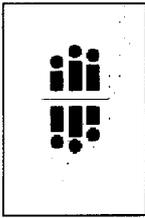
No mention at all of activities of liberal religious denominations, not necessarily Christians. Brief mentions to the role of the Christian Coalition in the Republican primaries. The Christian Right has enough TV programs. This is typical of the findings in the public files at the stations. Channel 7- WHDH had recorded into the files for the last quarter of 1999 that there was only "two" Latino news stories worthy enough for the programming logs.

Although I am not a member of The League of United Latin American Citizens (LULAC), the Mexican American Legal Defense and Education Fund (MALDEF), The National Association of Latino Elected and Appointed Officials (NALEO), or the National Puerto Rican Coalition (NPRC) all of whom are members of the People for Better TV coalition calling on the FCC to set guidelines for how broadcasters will serve the public. I, as a Latino individual would like to concur with these organizations. Surely, Boston can and should produce better local programming.

Thank you,

Allen Perez

Center for Information, Technology & Society



Furthering Advances in Communication, Computers, and Networks
for
Improved Education, Health, and Humanity

466 Pleasant Street
Melrose, MA 02176-4522
(fax: 781-662-6882) 781-662-4044
bmslib@mit.edu, www.CyberTrails.Org

Response to FCC Docket No. 99-360 "Public Interest Obligations TV Broadcast Licensees"

By: The Center for Information, Technology & Society (CITS)
Date: February 29, 2000

For the record, CITS is a 501(c)3 charitable nonprofit dedicated to improving all forms of communications that better society, culture, and knowledge.

Introduction: CITS was originally the Program for Information, Technology & Society at MIT. In 1986 the Center became a freestanding nonprofit. In 1996, the Director, Dr. W. Curtiss Priest, was recognized by Newsweek as "one of the 50 people who matter most on the Internet." The Center has worked closely with government agencies, including the U.S. Department of Education, in developing an Internet world that is informative and constructive for students in K-12 education. With the Corporation for Public Broadcasting, the Center has developed a web-based volunteer organization site. Links are provided at the Center's web site CyberTrails.Org

Preface: CITS recognizes that this country is witnessing a degree of privatization that is unparalleled in its history.

That this privatization has produced many efficiencies is also acknowledged.

Nonetheless, this organization does not believe that self-serving corporate interests will provide the healthy world for its citizens nor its children. Thus, it is firmly in support of a vigorous role for the FCC to champion the "public good."

That there are significant political forces that would dissolve the FCC also cannot be ignored. Such dreams that this entity should disappear are born out of the Friedman Chicago school of economics and elsewhere.

It is imperative that the FCC, including Chairman Kennard and the commissioners, resist the temptation to turn all solutions over to private markets.

This petitioner recognizes the issues raised, in particular by Commissioner Harold Furchgott-Roth. In response to those issues, this respondent asserts that the Communications Act of 1934 clearly states:

Nothing in this section shall be construed as relieving a television broadcasting station from its obligation to serve the public interest, convenience and necessity.

Commissioner Furchgott-Roth raises the excellent question as to how far this statutory language is to guide the FCC.

In the considered opinion of this respondent, we believe that the world of 1934 had just witnessed the "go-go" years of the 1920's and the domination of various industries such as telecommunications and railroads by the Bell Telephone Company and Mr. Morgan's banking interests.

Whether the "go-go" years of the '90s will transpire into the economic conditions that accompanied the Act of 1934 is yet to be seen. Regardless, there is a level of corporate dominated telecommunications that **must** be countervailed by

the FCC.

The "free market" bandwagon of this era must be balanced by the thoughtful and judicious considerations of the FCC — regardless of all political circumstances that may work to the contrary.

Cable Access As a Model

Cable access has been a serious and important mitigating response to the success of the cable television industry.

Every community, at every point in the renegotiation, strives to maintain this availability of public access.

Digital Television

The digital television migration will be no different.

Take 6 Mhz of bandwidth. With the advent of superior digital technologies, we find that there are choices. 6 Mhz can be devoted to an extremely high level of digital broadcast or the broadcaster can make trade-offs. They can broadcast 1 or 2 video transmissions of medium quality, and they can carve out the rest for commercial gain. They might provide this bandwidth for cellular expansion or they might expand this for "pay television." Either way, they are capitalizing on a **freely** given spectrum space.

It is this respondent's interpretation of the 1934 Act that all channels must respond to the public good. No channel may be subverted, solely for commercial gain — unless a commensurate amount of bandwidth and time is dedicated to the public interest on other channels. Further, we must avoid the process by which a station's public service is relegated to channels that are less watched. Such a process would weaken the station's ability to carry out the intent of the Act.

A visit to a local station — WBZ in Boston — recently acquired by CBS:

On February 29th, Dr. W. Curtiss Priest visited WBZ at 1170 Soldiers Field Rd., Boston, MA 02135

Access to the records was expeditious because of interest in the station's coverage of political events (it being the eve of the Presidential election.)

In the October 1 to December 31, 1999 period, the station had just three hours of children's programming, provided by CBS, consisting of:

- o Anatole
- o Blaster's Universe
- o Rescue Heroes
- o Flying Rhino Junior High
- o New Tales from the Cryptkeeper
- o Mythic Warriors: Guardians of the Legend

The description of these shows, as provided to the FCC, made each and every one of these sound pertinent to the need for quality children's programming.

In that two made references to children's book awards, Dr. Priest talked Prof. Mercier, who has served on children's award committees and is Associate Director of Children's Literature at Simmons College. To better address the actual shows, they both watched the episodes aired on March 4th.

Anatole (the mouse) is based on a book by Eve Titus which received a Caldecott honor book award in 1957. Of the various shows, this one presented its characters in various family contexts. Prof. Mercier said this was unusual for children's books; often parents are despatched to leave children to their own adventures. Dr. Priest found the interplay of characters to be warm, thoughtful, and somewhat charming. Nonetheless, there were various themes of

the episode that were bothersome. Anatole leaves his children with an uncle, Gaston. In the interplay amongst Gaston and the children, Gaston is made to look foolish as an adult. He "misunderstands" when Anatole mentions a 10 PM bedtime, saying, "I am always in bed by 10 PM." The children giggle at this point, placing them in a superior position. A minute later Gaston and the children are riding their bicycles (in France) and Gaston goes the wrong way. Again, the children take the upper hand. Only a while later, when one of the children claims to have done homework and Gaston notices otherwise, is Gaston portrayed as an observant parent. But, with regard to homework, the children all chime, "do we have to?" When the subject of health and exercise is briefly mentioned, Gaston says, "who said exercise is good for your health." So, various stereotypes are continued in the context of this show

1. Children are superior to their parents (a common theme across both television shows and television commercials in this era).
2. Learning (homework) is seen as some required evil rather than a positive activity of daily living.
3. Lack of exercise is excused.

Nonetheless, Prof. Mercier thought there were some distinctive pluses of Anatole. There was no gratuitous violence. There were two stories being told at the same time (one about the adventures of Anatole; the other about the children) and the ability for a viewer to follow a show constructed this way, helps children learn to follow such stories. There was 'literary parallelism' in the way the uncle becomes locked in the basement and the way Anatole and others get locked in a cage.

And, the moral of the story that "cheaters never prosper," while perhaps idealistic, does help affirm a 'good society.'

Blaster's Universe is based on a math game by that name. Here there are no parents, so there is no opportunity to portray family life. Instead, there are two, a girl and a boy as a team, who fight a villain who presents math puzzles. Dr. Priest found this show to be fundamentally disturbing. The team clearly, naturally excel in math. The foil in the story is a boy who plays pranks on his friends and only engages in math when he believes he is playing some kind of virtual game. The message of this subterfuge is that math is beyond kids like this, and only by 'candy coating it' will the child learn. The story writers are not to blame as much as is our society; the attitude that learning must be turned into a game to engage the learner runs deep in society's views about education and math.

Regardless, the show presented interesting math challenges and the dedication the boy/girl team showed in helping the prankster with learning math helps promote the goal of 'peer mentoring.'

Rescue Heros was, said Prof. Mercier, "preachy." Both this show, and the theme of Rhino Junior High were hyper-focussed on safety issues. The intent is clear: safety is good and a show that teaches safety will be considered good children's television. Prof. Mercier found the emphasis on safety was so heavy-handed as to make the show boring.

Regardless, the show demonstrated characters with a strong sense of teamwork and caring for each other. It is this kind of relational kindnesses that help a child see the value of caring for others.

The episode of Flying Rhino Junior High was about the visit of a fireman to the school and lectures about proper safety in school. The underlying message of the show is similar to that of Buffy the Vampire Slayer, that principals and teachers are controlling, preachy and buffoons and the students have to put up with this. Unfortunately, this depiction of our public education system rings true in many ways. But what are the effects of a children's show built around this premise? Perhaps children are permitted to laugh about it, thus giving them some release. Yet the show, in general, perpetuates the part of our educational system that many wish to improve.

If CBS' contribution to children's programming is confined to these six programs, we believe that much clearer evidence is needed of their merits. A clever writer can take almost any program on television and laud about its ability to, say, "improve social skills."

It is not that we insist on "blue ribbon standards," but we would like to see clear evidence that professionals involved with children's learning such as librarians, education faculty, and communications faculty are examining and shaping

these few shows for their positive effect on children. While some of the CBS shows credited "educational consultants," it may be that such consultants are working too much inside the framework of the show and not given the opportunity to restructure the shows.

And, have children been asked their evaluative opinion? For over thirty years, Educational Products Information Exchange has found publishers of learning resources seldom ask for evaluations from teachers or students. And, recently, the National Academy of Television Arts and Sciences has launched a project called "Creating Critical Viewers." The CBS shows would benefit from learner-evaluations as well as the advice from professionals mentioned above.

We encourage the FCC to not only assure there is sufficient children's television but to put into place a process by which these shows can be evaluated and improved.

Children's Programming in 1997 versus 1999 at WBZ (CBS):

The most telling difference between these two years is that, perhaps due to the acquisition by CBS, WBZ's programming for children dropped by 50%. In September 30, 1997 there were six hours of programming, and in the October 1997 report there were only three hours of programming.

This suggests that mergers and acquisitions do what many suspect — reduce coverage to the lowest commitment possible.

Equal Opportunity Employment:

Due to changes in the law, the last entry that accounted for the employment by WBZ by gender, race, etc. was date May 27, 1997

Change due to CBS reporting:

The only significant reporting change (other than the number of children's hours) was the inclusion of the dollar value of the Public Service Announcement (PSA) programming. While WBZ include great detail on PSA programming, it was only in CBS reporting that the first quarter of 1999 was shown to represent \$93,700 in outlays. What was not shown was what percentage this amount was to the overall budget.

Outside of Programming:

No information was found in the files that accounted for WBZ or CBS's public activities outside of programming.

Letters to the Station:

Letters to the station were dutifully filed in folders by month and year. However, there was no record of any action or response to these letters.

For example, there was a woman who wrote twice to express her dismay at the kinds of morning news she was receiving and details about who was providing it.

While these letters were very heart-felt, there was no indication that the letters made any impact. There were **no** responses to these letters in the file.

When the administrator for these files was asked about reply letters, the response was that these letters to the station might, or might not, be circulated in the appropriate divisions of the company. Whether anyone responded to these letters would be up to the individuals to whom the letters were first directed. In any case, no response was filed with the letters as part of the public record.

Immediate Recommendation to the FCC:

All letters to publicly underwritten stations **should** be responded to and all such responses should be included in the public record.

Summary comments by the Center for Information, Technology & Society:

1. All channels of public awarded spectrum space should serve the public interest
2. Each and every digital channel (and sub-channel) should serve the public interest. Shifting of materials to lesser watched channels or transmissions should not be permitted.
3. Stations should clearly indicate how they are adapting to public needs by not only receiving letters from the public, but also indicating how the "consumer voice" of the public is effecting programming decisions.
4. Stations and/or networks should work more closely with resources that understand the value of forms of children's education. Such clearinghouse resources might be the Center for the Study of Children's Literature at Simmons College, the Educational Products Information Exchange of Hampton Bays, NY, the Communications Department of Emerson College, and the American Teachers Association.
5. Cross ties should be formed between local Public Cable Access organizations and major television networks. Materials produced by Cable Access that have high merit, should be carried by major networks. This cross-fertilization will help reduce the gap between major network's need to pander to "American Interests" and shows that have sufficient local content and quality to attract viewers.
6. In general, the FCC should carefully study the programming attitudes and values of systems in Canada, the U.K. and France, to better understand, by "cross-country" comparison, what alternatives there are to the "American formula" for appealing to the Public.
7. The FCC should, within whatever 1st Amendment restrictions exist, attempt to shape American Television into a positive, ethically-based, humanizing, civilizing experience for its viewers. Parents of children of many ages would be pleased to exchange the V-chip for the opportunity to engage with superior programming that communicates community, interrelational values, and an aspiration for learning. The separation of church and state should not be interpreted as a separation of redeeming culture and state. Those who would close the FCC should be reminded that dehumanizing economists are those who "know the price of everything, and the value of nothing." The market process is no guarantee of a society worth living in; the role of nonprofits is particularly important during eras of transition as they often embody goals, virtues, and aspirations that can never be purchased and are never for sale.

Perhaps if stations and networks were required to write descriptive materials about the redeeming aspects of all of its programming (as they do already to justify the redeeming aspects of their three hours of children's television), this would be a step in the right direction. Such a process would, hopefully, reveal to reviewers both inside and outside of television firms what news and programs are inspiring and empowering and what news and programs are simply pandering to base, debasing interests as epitomized by the presence of sex and violence without meaningful context.

8. The FCC should contract for studies of the effects of media concentration. As found above, WBZ as an independent station carried twice the level of children's programming prior to its acquisition by CBS. Under increased pressures from competition from various sources, including cable and satellite, there may be a "rush to the bottom" in terms of meeting the goals of "must carry" and other PSA goals voiced in statute and the regulations by the FCC.

In that there are both positive and negative effects of media concentration, the FCC should not expect that any one study can be the basis for policy. It is well known that such studies vary as widely as the implicit agendas embodied in firms and institutions that conduct such studies. These differences are not to be avoided, but rather

used to help illuminate the issues surrounding the effects of communication; the effects of the for-profit drive; and the voices of those who see defects in the current (and future) of analog and digital television. Only with open discussion (such as this NOI) and government-provided resources for such studies can good television for a better society be assured. Corporate interests are always well funded; in contrast, those that would or can speak to non-corporate interests are often teetering on the edge of financial insolvency. And while insolvency is a symptom in the "business world" that this entity should go out of business; insolvency in the not for profit sector can often occur simply by the process where corporations co-opt government's role in funding activities — activities that help ensure that societal losses, damages, or lost opportunities due to "market-failure," are not allowed to happen (see Appendix A).

Respectfully submitted,

Dr. W. Curtiss Priest, Director

Appendix A

Inherent causes of "market-failure" associated with Information and Communication

For one discussion on market-failure in the provision of communication and information see:
www.eff.org/pub/Groups/CITS/Reports/cits_nii_framework_ota.report — especially these sections:

- 2.2 Market-Failure Related Characteristics of Information
 - 2.1 Market Related Characteristics of Information as a Commodity
 - 2.1.1 Intrinsic Co-production
 - 2.1.2 Time Constrained Consumption of Information
 - 2.1.3 High Investment to Reproduction Cost Ratios of Information
 - 2.1.4 Relevance of Information More Variable Across Consumers
 - 2.2 Market-Failure Related Characteristics of Information
 - 2.2.1 Public Good Characteristics of Information
 - 2.2.1.1 Inappropriability
 - 2.2.1.2 Non-depletability
 - 2.2.2 Externalities (expected and unintended)
 - 2.2.3 Indivisibilities (of supply)
 - 2.2.4 Economies of Scale and Scope (of production)
 - 2.2.5 Inherent Uncertainty and Risk in Information Production
 - 2.2.6 Information/Knowledge About the Information
 - 2.2.7 Intangibility (of benefits or values)
 - 2.2.8 Transaction Costs and Information
 - 2.2.9 Equity/Distribution Considerations (related to Universal Service)
 - 2.2.10 Network Externalities
 - 2.3 Non-market Related Characteristics of Information
 - 2.3.1 High Intrinsic Relationship to Human Welfare
 - 2.3.2 High Intrinsic Relationship to Issues of Freedom and Privacy

Date: Tue, 29 Feb 2000

From: stephen provizer <improviz@gis.net>

Feb, 2000

Dear Commissioner:

I am director of an organization that pays a great deal of attention to television programming that springs from and deals with issues of importance to our community. Such programming, unfortunately, is very difficult to find. Such, at least, was the anecdotal consensus of our members and recent visits to two of Boston's major television outlets did nothing to alter this impression.

The two stations we visited were WHDH, channel 7 and WSBK, channel 38. Both are local affiliates of national broadcasting corporations-NBC and UPN respectively-and both can be considered "major" stations. Their local inspection files were a study in inattentiveness to local concerns.

WHDH had ONE locally produced public affairs program, which aired at 6:30 AM; no doubt for maximum viewer impact. This station had NO programming for young children under 6 years old and, in fact, no community outreach director at all. Generally speaking, the files were in a chaotic state and 2 PSA's that were listed as targeting youth under 16 included "designated driver" and "teacher recruitment."

WSBK, for its part, has no newscast of any kind, local or national. They air only 2 locally-produced public affairs shows, one of which, aimed toward youth, airs twice a year. They also have no young children's programming. The person in charge of producing what local programming does exist is both producer and on-air talent and there is no plan in place to solicit ideas or feedback from the community.

It is our belief that these stations represent a norm rather than an aberration and we hope that the FCC bears this sorry performance in mind as it deliberates on what responsibilities need to be born by broadcasters as the country proceeds to implement digital television.

Sincerely,

Stephen Provizer
Director, Citizens' Media Corps
107 Brighton Ave.
Allston, MA 02134
617-232-3174

Steve Provizer
107 Brighton Ave.
Allston, MA 02134
617-232-3174

Citizens' Media Corps
Allston-Brighton Free Radio
Voices for Community
<<http://www.citizensmedia.org>.>
<<http://www.radfrall.org/>>

MASSACHUSETTS CONSUMERS' COALITION

AN ASSOCIATION OF PUBLIC AND PRIVATE AGENCIES AFFILIATED TO PROMOTE CONSUMER INTERESTS

PAUL J. SCHLAVER, Chair
Cambridge Consumers' Council
617-349-6152

JEANNE FOY, Secretary
MASSPIRG Consumer Action Center
781-335-0280

DIANE SZAFAROWICZ, Vice-Chair
Attorney General's Office
617-727-2200 x 2982

JEAN COURTNEY, Treasurer
Consumer Information Center
413-263-6516

February 29, 2000

William E. Kennard, Chairman
Federal Communications Commission
445 12th Street S.W.
Washington DC 20554

Dear Chairman Kennard:

I am writing you to urge you and the FCC to establish clear guidelines that broadcasters in my community must follow as they begin to use digital signals and expand their channel capacity to reach us all via television. As I watch local television, especially news and public affairs type of programming I believe more and more that the existing effort to meet current obligations of local broadcasters are remise.

I have a special interesting consumer issues as the director of a consumer protection agency and chair of a state-wide consumer organization. While I can point to some local stations such as Channel 7 (NBC affiliated) and Channel 5 (ABC Affiliated) as stations that have consumer reporters with regular segments, I must say that all too often their segments focussed primarily of drama appealing scams discussed with the aid of hidden cameras to catch high pressured sales activities or "sleazy" car dealers, and then confronting them and little more.

The potentially in-depth shows that might go beyond the dramatic brief piece are always buried in Sunday morning time slots. Only New England Cable News seems willing to afford decent time allotments or time slots to more substantial discussion of consumer issues. The networks seem to also mainly defer to the *Dateline/20-20/60 Minutes* network world to cover consumer issues.

In Massachusetts a major 100 page piece of legislation was filed last year addressing every aspect of privacy from the grocery store to the Internet. It will be a long time in the negotiation and re-write phase before a final, passable bill comes out of this effort yet minimal attempts have been made to address the issue, analyze the proposed legislation, etc. by local TV stations, especially the network affiliates. It deserves more that being a one-day media story on the bill filing date.

Massachusetts is certainly in the midst of a substantial debate over the issue of Broadband Open Access to ISP and also the issue of whether Bell Atlantic is ready to be permitted to enter the long distance telephone service arena. The buying and selling of Cable TV companies has been rampant in Massachusetts. I simply cannot recall one decent local network offering some in-depth coverage of these complex issues. Such stories cry out for more time and attention than reporting on a sports score or weather report needs to take. They are confusing, complex issues than impact consumers future daily lifestyles and pocketbooks considerable.

Massachusetts has many wonderful educational facilities that focus on disabilities such as learning disabilities, sightlessness, and physical or mental rehabilitation. There are local disabilities groups working with cities and towns to tackle major physical access challenges in old New England communities and buildings and also access to public transportation. I wish one of these schools or programs received 15 minutes of coverage every time another news broadcast focussed on "Where is Whitey Bulger, the South Boston gangster and FBI informant!"

Fortunately for us we are blessed with the New England Cable News station and with our beloved public broadcast station, WGBH, and receive some of these positive and informative stories that way. I can't help but feel, though, that the local network affiliates are simply deferring to these two successes and also the national network programming to "fulfill" this public mission and information need.

Cambridge, my city, just held two incredible events within a week of each other to Honor Black History Month. Both events honored diversity, the arts, public services and simply community efforts to live and flourish in a diverse spirit of community. One event was held in City Hall in the evening and the second event was held mid-day today at the main post office and included an unveiling ceremony of the Patricia Roberts Harris Stamp and the talents of local black artists and leaders were showcased. The crowds were good at both but no TV cameras came to either event even though a press release went out. What did the evening news focus on today? ...primary elections, another school shooting and a local doctor charged with shooting his wife.....

I believe very strongly that the lucrative opportunity presented to broadcasters with digital TV and the golden opportunity for us citizens to learn and see more through greater choice on TV needs the guiding hand of our government creating some operating rules and parameters that must be followed. Please allow further review and input through a rulemaking process as a result of this inquiry process.

Thank you for your time and attention,

Paul J. Schlaver, Chair
Massachusetts Consumers' Coalition

New York

Tab D-1b

Elizabeth Cohen
Staten Island, NY
1/3/00

Linda Cookingham
Kingston, NY
2/28/00

Lucile Middleton (Bridge The Gap Family Day Care Network)
New York, NY
2/29/00

Shirley Middleton (Bridge The Gap Family Day Care Network)
New York, NY
2/29/00

Toby Miller
New York University - Dept. of Cinema Studies
New York, NY
2/29/00

Sonia Ossorio (NOW)
New York, NY
2/29/00

Florence Rice
Harlem Consumer Education Council, Inc.
New York, NY
3/1/00

From: mizlizz4u@aol.com
To: bkennard@fcc.gov
Date: 3 Jan 2000

Elizabeth Cohen
76 furness place
staten island, NY 10314-6206

Chairman William E. Kennard
Federal Communications Commission
445 12th Street, SW
Washington, D.C. 20554

Dear Chairman Kennard:

I am a seventeen year old female from new york city. I have been watching television since I can remember, and I've seen it change over the years (besides the types of programs I watch). It has grown more and more disgusting, as I would hope you would be aware of by now. In fact, I have just about stopped my T.V. watching, and I find it pretty amazing that a seventeen year old can be so fed up with the programs on T.V. They literally disgust me - sex, violence, vulgar language, inappropriate actions, etc. To see half naked kids my age pretending to be kids in junior high is absolutly abhorrent. Where is the education? The good old fashioned values?

Do you have children, Mr. Kennard? Do you want your kids watching filth and trash on T.V.? If you do, then I believe I can safely say I have lost respect for you and the television business.

Thank you for your time.

Sincerely,

Elizabeth Cohen

CC:
Representative Vito Fossella
Senator Charles Schumer
Senator Daniel Patrick Moynihan

Date: Mon, 28 Feb 2000

From: Edward & Linda Cookingham <dogwood@ulster.net>

Subject: Public Interest Obligations

To: FCC Commissioner, William Kennard

From: Linda Cookingham, Private Citizen
1134 Dogwood St.
Kingston, NY 12401

Attention:

My name is Linda Cookingham and I live in the Hudson Valley, approximately 90 miles north of New York City. My husband and I tune in the NYC TV stations for the daily news and are distressed that our "local" news is rarely broadcast. In fact, the stations are hard pressed to include the Hudson Valley in their weather reports. I can report that FOX news does have the Town of Poughkeepsie on their weather map and CBS shows as far north as Newburgh, NY. This hardly serves Kingston or our surrounding areas.

The point I am trying to make is that we watch the news for local information, in hope that these "local" broadcasters will serve their entire viewer audience, not just the greater NYC area. My husband and I both work for a NYS Agency and are honest citizens who pay taxes. So, why is it that we only see the Hudson Valley visited by NYC reporters when they're looking for horrific or negative news to splash over the airwaves? Stories like the Tawana Brawley Case or just recently, the Poughkeepsie serial killer, motivated those stations to send reporters to get the trashy and gory details.

I have lived in the Hudson Valley for nearly 30 years and never can I remember a time when a NYC-based television station has sought our local opinions on politics or other news worthy topics concerning the state of New York. Relevant news from the Hudson Valley is not aired nor do we have broadcasters seeking expert opinions from our community members. It is my hope to see an increase in representation for the Hudson Valley. Local broadcasting stations receive licenses for free in exchange for serving public interest. Our local stations are not earning the right to their free licenses because they are not serving the "entire" public interest. My public interest has not been served in local public affairs programming, politics, weather, etc.

I whole-heartedly agree with all of the recommendations that have been put forth by People for Better TV in regard to public interest obligations for the new era of digital broadcasting. I strongly suggest that the FCC immediately hold rule-making sessions to determine the public interest obligations of local broadcasting stations. As an American citizen I believe, first and foremost, that local broadcasters should serve their viewers with information that is relevant to their local communities. Without rules in place, I do not believe local broadcasting stations will voluntarily serve the public interests.

It is my greatest hope that my voice will be heard and that the FCC Commission will uphold it's responsibilities to all American citizens.
Thank You!

Lucile Middleton
Bridge The Gap Family Day Care Network
Manhattanville Station, P.O. Box 5528
New York, NY 10007

Federal Communications Commissioners
Federal Communications Commission
445 12th Street, NW
Washington, DC 20554

February, 29 2000

Dear Commissioners,

In all of my years I have never realized the significant adverse influence that television has on children. My realization is attributed to my getting up early (8am-12pm) and watching the television programs on channels 7 and channel 4. It is so easy to let a lot go unnoticed when you are not setting a keen eye on what you are looking at. Not identifying or singling out any one show because it is safe in this case to make an assumption, the themes that radiate from the programs are that violence is okay, popularity is important, one never dies when in a violent situation and that it is okay not to be intelligent. These themes are then down played with the numerous public service announcements that obviously contradicts what the program has or is depicting, (which in reality is only noticeable by the mature audience and totally unrelated to the child who watches the notice). What makes the PSA so humorous is that they are done by actors and actresses that children see on other programs, which makes it difficult for them to see the relevance because they are not individuals they can identify with. Where is the reality? What relevance does such announcements provide for children who are watching. There is no connection made. Therefore as a future educator I do not see what is educational about these early morning cartoons.

The other thing that became apparent is the amount of advertising that is directed to children. In one half an hour program I saw roughly 10 to 15 commercials that could plant a false idea in children's that in order to have true happiness you have to have this particular product. How terrible is this? With such an idea planted in children's minds they will never be happy because they always need to have that toy, that cereal, that clothing, etc.

If we do not hold them accountable now then when?

Sincerely,

Lucile Middleton

Shirley Middleton
Bridge The Gap Family Day Care Network
Manhattanville Station, P.O. Box 5528
New York, NY 10007

Federal Communications Commissioners
Federal Communications Commission
445 12th Street, NW
Washington, DC 20554

February, 29 2000

Dear Commissioners,

I see the game is the same, the difference is I am older and the players are different. Why can't people understand that elders aren't where they are in life just by mistake? On February 24th 2000, I went to NBC and ABC with my daughter to gain entry to the public records and I cannot believe the run around they tried to give me. I say tried because I could see right through the game. The stories I got were ridiculous. I know the best way to avoid a person that you truly do not want to have any dealings with is to say that they are not in. And to no surprise to myself that is exactly what they did. The key person who handled the records was phantomus. I guess they use the same phantomus approach when planning programs. Not only did we not gain entrance, but also we were told at one station that the person we knew handled the files (and who had spoken to my associates, just the day before) was not an employee.

After reflecting on the programs that I personally grew up on and programs that my children watched when they were growing up and comparing them to what I saw on channels 7 and 4, I noticed a tremendous difference. The themes that were illustrated back when my children were younger were less abstract and less violent. However colorful and "animated" the cartoons and the programs are today, the themes are frightening. They perpetuate an idea of violence and they put a false idea in children's mind that violence solves everything and like the cartoons or the characters they are invincible. Which is by far the furthest from the truth. And all of these programs that are on today are a contributing factor of why the violence rate among small children and teenager is on the rise.

Sincerely,

Shirley Middleton
Bride the Gap

Toby Miller
Department of Cinema Studies
New York University
721 Broadway, Room 600
NY NY 10003
Email: toby.miller@nyu.edu
Ph: (212) 9981614
Fax: (212) 9954061

Federal Communications Commissioners
Federal Communications Commission
445 12th Street, NW
Washington, DC 20554

February, 29 2000

Dear Commissioners,

My name is Toby Miller. I am a Professor of Cultural Studies and Cultural Policy at NYU, and the author of several books on television.

My analysis of the Fox news disturbed me greatly. First, its long initial period of commercial-free reports, mostly local and fairly comprehensive, was followed by single stories punctuated by numerous commercials. All these later stories were insubstantial--the weatherman's battle with his waistline was allocated five minutes, for example. No story in the second period dealt seriously with local matters. But even within the first segment, with few commercials (designed to keep viewers watching through the bulk of the program to follow) there were very problematic ways of presenting stories that were insensitive to the community. For example, some quite competent, balanced reporting of the Diallo and Louima stories segued seamlessly into identikit pictures of black men accused of rape and interviews with white residents of an area of the city, along with additional cries to be afraid and to dial 911--suddenly, blacks were the enemy again, and the police an ally. No attempt to disentangle the stories was made, or to be reflexive about how linking them might make viewers feel.

In terms of issues that should be covered in an hour of news ostensibly dedicated to localism, consider the following: non-Mayoral, borough politics; the environment; social-movement organization; education (one story told parents their children were at risk on the internet 'A predator, after your child, is just one click away'--very irresponsible reporting not backed up with time-series statistics), city services, and a raft of other topics.

I am hoping that the FCC will pay serious attention to the question of localism in the new digital environment, especially given the poor standard of local news in today's transitional moment.

Sincerely,

Toby Miller
Department of Cinema Studies

National Organization for Women
in New York City
Sonia Ossorio
Chair of media committee
150 W. 28th St. #304
New York, New York 10001
212-627-9895

February 29, 2000
Federal Communications Commission
445 12th Street, NW
Washington, DC 20554

Dear Mr. Kennard:

Over the last month the National Organization for Women in New York City has been documenting coverage of local programming in an effort to determine if local television stations are upholding their commitment to public interest programming by covering topics and events in the area of women's issues.

This report documents broadcasters clearly are not. Broadcasters have urged you to issue voluntary guidelines regarding their public interest obligations. What is needed is mandatory broadcasting requirements to ensure women's voices, concerns, and accomplishments are part of their public programming.

A public hearing is needed to hear from those of us in the community who are concerned about women's access to the media and women's image as presented by the media. We urge the FCC not to give away public property without requirements on how to serve the public.

As it stands, too many vital issues and perspectives of importance to the nation remain unexpressed and unexamined. Digital broadcasters should be required to use the new power of digital transmission to expand the number of perspectives expressed over the public airwaves.

The airwaves are a public trust, yet Congress has given exclusive control of those airwaves to major corporations. What do women get from the seven corporations that control what is broadcast to American living rooms?

Not much. Women continue to be marginalized; as serious women in business, sports and policy making. The issues important to women, that must be brought forth for debate; substandard child care, pay inequity and the glass ceiling are not examined, highlighted

and presented as current American problems. Marginalized as women's problems, these issues become more of a private dilemma for individual families to deal with, rather than issues of collective interest of the community.

In exchange for free use of the airwaves, broadcasters are suppose to act in the public interest. Women have never had fair representation and equal access to the airwaves. The public often gets just the opposite: Programming that is filled with harmful and negative images and outdated stereotypes of women.

While it was impossible to determine from local station's public files the degree to which women were marginalized in general news coverage and public programming shows as experts and sources, this insidious problem has been documented by media and women's organizations.

In 1996, 87% of the guests on Sunday public affairs programs were men. Nearly 60% of all guests invited to appear on "Today" and "Good Morning America" were male. And women represent only 14% of business news stories, according to the report "Women, Business, and the Media," commissioned by the International Women in Media Foundation and Catalyst, a research firm specializing in women in business.

Women's voices will continue to be under-represented in television public programming as long as present practices persist. Only 21% of correspondents are women, and there are only eight female vice presidents at major networks, according the Executive Female.

Review of CBS Public Files

State of the files

The public files at CBS were orderly and neat, however, information of public programming was not detailed or thorough. A year's worth of public programming was outlined in 19 pages, of which many of those pages had lots of white space.

The public files room at CBS was accessible and had a desk. I was asked, however, what organizations I represented, which is prohibited. Also, CBS charged 50 cents a page for copies, an inflated prices that discourages the public from making copies. This is not accessibility.

It was difficult to find specifics on public programming for women because the files are not categorized under subjects. A table of content with categories and references to the pages on which examples can be found would be very helpful.

CBS's public files did not contain ascertainment files and their involvement with community outreach programs, such as public service announcements. PSAs serve an important function in a media environment which often blurs news, advertising and

entertainment. A PSA is a clear message of information. CBS should include their PSAs to represent a more balanced picture of how they are serving the public interest.

CBS is not doing its fair share of local programming. The only local programming outside of news coverage is "Sunday Edition."

Review of Content of CBS Public Files

In a review of the past four quarters at CBS's public programming obligation, there was scant mention of public interest coverage on women. Domestic violence coverage dominated this front.

Besides two segments on health issues concerning women (both had to do with pregnancy) and one news segment on the influence of women in the Christian and Jewish ministries, the only issue of concern to women covered by local programming was domestic violence, the most-often reported story about women in general

Clearly an important and serious issue, but when it is the only category of information the public receives about women, it ends up making women look like victims, or more specifically, only victims.

This is a huge disservice to women.

In the area of violence towards women, a debate is heating up locally over a statute of limitations of five years in rape cases. This is an extremely timely story because DNA testing is pinpointing rapists who cannot be charged for the crime because the statute of limitations has run out. If women are to organize and appeal to their political representatives to introduce legislation to change this law, they must first know about this news.

In a story about AIDS, there is no mention in the public files of it being relevant to women. The fact is that women are the fastest-growing population contracting the AIDS virus.

Mention of the Memorial Day Parade does not include women. During the last year, finally, women's contributions and involvement fighting for their country have started to get recognized; yet their inclusion is not part of the Memorial Day Parade coverage CBS lists as public programming.

In a discussion of a female politician, three men debate the aspirations of Hillary Clinton. No women's voice, no female pundits are brought to the discussion.

As for sports, CBS virtually ignored women's athletics and professional sports. On Tuesday Feb 22 during the 5 p.m. newscast CBS, "previewed" the upcoming Sports

Illustrated swimsuit edition bringing no opposing views to the coverage, no mention that professional female athletes make up less than 10% of serious sports coverage in the magazine throughout the year. This has been a debate, controversy and fight for women's organizations for years. What's worse, is then CBS had no stories about female athletes in its sports segment. So CBS served the public interest by "previewing" a sports magazines edition of women as sex objects, not noting that this magazines coverage of professional female sports is dismally low. In line with Sports Illustrated's marginalization of female athletes, CBS did not cover women's sports in its own broadcast.

The following day, Feb 23 on its 11 p.m. the CBS newscast showed clips from men's NCAA games, but not any women's NCAA games, eventhough the women's team is the leagues best team right now. CBS did not even find women's NCAA games worthy of being on the scoreboard which flashed to give viewers a quick glance at that day's games. Feb 23 two important women's regional games played; Uconn and Rutgers.

The following day, again, women in sports are ignored. Feb 24 11 p.m. news CBS reported 6 sports stories. Not one featured women's sports or a female athlete, even though a beautiful opportunity existed to feature the countries top women's collegiate team or some of its top players in this series.

During the 5:30 p.m. newscast on CBS Feb. 23, there were no stories for or about women in all areas, health, politics, domestic violence, women in business. The only story covered focusing on women was a 30 second story on Tonya Harding, sensational coverage of the former ice skating Olympic contender for being drunk and assaulting her boyfriend.

On channel 11 (UPN) Wed. Feb. 23 10:30 p.m. newscast the only story on women was the bride from the "Who Wants To Marry a Mult-millionaire." However on UPN, Uconn women's basketball game did get a soundbite on their victory that day.

On Friday Feb. 25, Men Against Sexism, a local organization, protested the swimsuit issue of Sports Illustrated. CBS did not cover this event.

There were no mentions of the landmark sexual harassment laws put in place that are civil rights milestones for women in the workplace. Follow up to this hugely significant event would be in the public interest.

The National Organization For Women in New York City won a court case against the New York State division of human rights to force them to set up policies to improve response time and lower backlog of employment discrimination suits filed with the state. CBS, nor FOX, nor any other television station responded to press announcements of this legal victory won by NOW.

The Susan B. Anthony awards, which honors women in the community who have improved the lives of women, was not covered by any television station.

The above-mentioned examples are only a few of the events and issues relating to women local New York City television stations simply ignored. This applies to both CBS and FOX, the two stations discussed in this report.

Review of FOX Public Files

Fox's public files room was not accessible to the public. To review files one had to sit on the floor. There were no chairs or desks. Area would not likely accommodate a wheelchair.

Fox does have a community affairs director.

Fox public programming files were very neat, detailed and clear. The station documents its public programming thoroughly and extensively.

Segment time and total time dedicated to subjects are noted. Very informative and useful detail for stations to include.

Fox did include a table of contents, however a subject category for women was not part of that.

In the fourth quarter FOX mostly covered health issues for women. Although women's coverage was limited to a great degree to one subject, the health coverage was fresh, going beyond the well-tethered stories that are often the easiest to cover. For example, in the fourth quarter FOX informed the public about how women are more likely to develop lung cancer; how Blacks and Latinas are most commonly affected by breast cancer; new foundation raising awareness and funding for women under 40 with breast cancer.

A good amount of attention was given to Black and Latina women's health issues.

FOX also covered issues of significance to young women; teen dating and violence, the prevalence of abusive relationships and advice on how to steer clear of violent men.

Another story on FOX focused on teen magazines and how they portray unrealistic body images for young girls.

While FOX covered a women's health, and a couple young girl's issues, women were rarely mentioned in any of the following categories FOX accounts for; sports, govt. politics, environment, transportation. Women were mentioned in crime and murder, in reference to stories about a serial rapist, a woman attacked with a brick and a teacher who allegedly molested a female high school student.

In addition, FOX did a good job at documenting the station's PSAs and community outreach. In the fourth quarter, FOX was involved with the NY Coalition of 100 Black Women and the NY Asian Women's Center. No details on how FOX was involved was noted.

FOX ran a PSA on breast and ovarian cancer fund raiser 13 times in the fourth quarter, yet that was the only one listed.

Wed 10 pm Fox news Feb. 23 no sports coverage of Women's NCAA basketball although two important regional games played that night: Uconn and Rutgers.



Harlem Consumer Education Council, Inc.

P.O. Box 1165 Triboro Station, New York, N.Y. 10035 (212) 795-0234

**FLORENCE M. RICE
PRESIDENT**

**LUCIL LAZELLA MIDDLETON
PRESIDENT
YOUTH CONSUMERS EDUCATIONAL COUNCIL**

March 1, 2000

Dear Commissioners:

My name is Florence M. Rice. I am a citizen, great grandmother, consumer advocate and community leader here in Harlem. I have been a resident of this close community since 1936 and it is my personal opinion that Harlem has been extremely neglected by local television broadcasters.

We live in a time of rapid change in technology and especially in communications. I would like to specifically focus on the transition from analog to digital broadcasting. Most of the members of my community here in Harlem receive their information primarily from television. The local news broadcasts are not considered "entertainment" in my community and I, like many others, resent any local station's claims to be serving my community's interest.

As a consumer advocate and President of Harlem Consumer Education Council I must point out that on inspection of the public files at WABC, WNBC, WCBS and WNYW there was no reference to consumer oriented reports. Are we all not consumers of some type? Local broadcasters definitely remember that fact during "commercial breaks". Many of the local stations do have consumer segments, yet they are not deemed relevant enough to include in their public files. WNBC-4 includes crime, education, ethnic, government/politics, health and housing/homeless and WABC-7 include cultural and racial relationships, the economy and economic issues, education and the school system, health and healthcare issues, quality of life and the environment and women's issues. In this thriving economy where more people are spending money, local broadcasters should pay greater attention to their viewer's financial "well-being" and cover more stories on "consumer fraud" by local vendors.

My concern in relationship to "bad press" has led me as a mother-in-law to reflect over the years that my daughter has been married to the same loving and caring man, and how during all of these years of marriage, children, grandchildren, and great-great-grandchildren he has been steadfast in his commitment to family. I honor him and the many other African American men taking care of their families in New York. Local broadcasters should also honor these men by including them in their local news broadcasts instead of dedicating these precious minutes to the likes of "Puffy Combs".

Why is it that "Puffy Combs" an African American musician accused now of bribery as well as assault, received 30 seconds of airtime on channel 2-WCBS's 11 o'clock news and 1 minute on FOX 5's 10:00pm news segments are considered "good" news reporting. "Why"? They do not discourage crime but perpetuate the stereotype that all African American men are "criminals". Why on 2/29/00 FOX 5's 10:00pm news was Howard Stern and his program of obnoxious behavior worth three minutes of airtime yet the tragic flooding in Mozambique that left thousands of people displaced from their homes only received 30 seconds of airtime? My local news focuses primarily on the rich and famous New Yorkers seeking publicity. It is a great disappointment everyday to sit at home only to watch local

broadcasters provide famous people with “free” publicity. Where are the local interest pieces on the news? An example of how local stations ignore the local interest, opting to cover the rich or famous happened on May 26th 1999.

Columbia University’s spring commencement was held on that day, and honored African Americans like Mohammed Ali while outside the commencement ceremony, local citizens picketed. Along with 20 others, I picketed Columbia University’s hypocrisy. A local organization called “Fight Back” was outraged that one the largest institutions in Harlem (Columbia University) honored African Americans at the commencement ceremony, yet contributed to the conditions of poverty in the surrounding community. “Fight Back” accused Columbia University of hiring “outside” vendors and contractors. I like many others believed that they ignore the wealth of human resources here in Harlem, so we held a protest. There were local stations at the commencement ceremony, people were interviewed and short television segments were produced on the graduation and Mohammed Ali’s award. However, our protest was not covered meaning it was not considered newsworthy? People in my community ask the question “Why are our interests less important than Mohammed Ali or the graduating students at Columbia University?” Local stations wanted the famous and wealthy (glamorous) story instead of telling the truth, my truth and my community’s truth. Enough is enough.

As local stations make the transition from analog signals to digital I want the FCC to step in and protect local communities. The FCC should immediately start proceedings to determine the public interest obligations of digital broadcasters. I am concerned that when an associate of mine visited our local broadcasting stations the same theme of “ we only put in the public files what our lawyers tell us too or what the network says to put in the files” was repeated from station to station. If the majority of stations do not take the initiative to voluntarily include public ascertainment files why would they voluntarily serve the public interest without any rules? For the reasons listed above I fear that without rules in place, local stations will not serve my community’s interest. People For Better TV is a coalition that has outlined modest suggestions for rules addressing this matter, I strongly urge the FCC to consider these recommendations and immediately hold rule making sessions to determine local broadcasters public interest obligations.

Thank you,

Florence M. Rice

2

SOUTHEAST

Georgia

Tab D-2a

Mrs. Susie Green
Jonesboro, GA
2/21/00

Ms. Doshia Harris
Austell, GA
2/28/00

Ms. Marlyn Hill
College Park, GA
2/25/00

Ms. Carolyn Jenkins
Stockbridge, GA
2/19/00

Mrs. Pam Parks
Jonesboro, GA
2/24/00

South Carolina

Tab D-2b

Angela Frazier
Columbia Consumer Educational Council
Columbia, SC
2/26/00

Matilda Foster-Garner
Columbia, SC
2/21/00

Dorothy Garrick
Columbia Consumer Education Council South Carolina
Columbia, SC
3/7/00

Rebecca Rogers
Carolina Peace Resource Center
Columbia, SC
2/22/00

Ruth Simpson
A. Philip Randolph Institute
Columbia, SC
2/28/00

**Mrs. Susie Green
949 Forest Point Way
Jonesboro, GA 30236**

February 21, 2000

**Chairman William Kennard
Federal Communication Commission
445 12th Street, NW
Washington, DC 20554**

Dear Chairman Kennard:

I am writing to urge the FCC to set a date to establish clear guidelines for broadcasters in my community who are sending digital signals.

I believe that local broadcasters should be required to ascertain the needs of all segments of my community and air programs accordingly. In my community there is a lack of local minority programs that include positive role models. There is a lack of Hispanic and Native American speaking programs and our children are bombarded with commercials advertisements or with advertising disguised as entertainment on educational programs.

I am recommending that digital broadcasters be limited to no more than four commercials, no more than sixty seconds long, per hour during children's program and digital broadcasters must make every effort to show programs that reflect the community in a positive way. They must also hire and promote more minorities.

Again, I am Urging you to set clear guidelines for broadcasters as soon as possible.

Thank you for your support and allowing me to participate in this inquiry.

Sincerely,

Susie Green

**MS. DOSHIA HARRIS
1153 SUMERTONE TRACE
AUSTELL, GA 30168**

FEBRUARY 28, 2000

**CHAIRMAN WILLIAM KENNARD:
FEDERAL COMMUNICATIONS COMMISSION
445 12TH STREET, NW
WASHINGTON, DC 20554**

DEAR CHAIRMAN KENNARD:

**PLEASE ACCEPT THIS LETTER AS MY RESPONSE TO THE
NOTICE OF INQUIRING ON THE PUBLIC INTEREST OBLIGATIONS
OF BROADCASTERS.**

**I UNDERSTAND THAT TELEVISION BROADCASTERS IN MY
COMMUNITY HAVE BEGUN USING ADDITIONAL PUBLIC
AIRWAYS TO BROADCAST DIGITAL TELEVISION SIGNALS. I AM
CONCERNED ABOUT THE AFFECT IT HAS ON THE VIEWING
AUDIENCE IN MY COMMUNITY. TELEVISION CAN BE A VERY
GOOD THING, IF IT IS USED WISELY AND PROPERLY
CONTROLLED. TELEVISION CAN BE EDUCATIONAL,
INFORMATIVE, ENTERTAINING, AND THOUGHT PROVOKING OR
IT CAN CAUSE PEOPLE TO WANT THINGS THAT ARE NOT GOOD
FOR THEM, BE PASSIVE AND UNCREATIVE OR EVEN BECOME
VIOLENT.**

**I THINK THAT LOCAL BROADCASTERS SHOULD BE REQUIRED TO
SET ASIDE AN HOUR A DAY OF EDUCATIONAL PROGRAMS FOR
CHILDREN ON ALL THE CHANNELS THEY BROADCAST;
BROADCASTERS SHOULD BE LIMITED TO NO MORE THAN FOUR
COMMERCIALS, NO MORE THAN SIXTY SECONDS LONG, PER
HOUR DURING CHILDREN'S PROGRAMS, AND PARENTS SHOULD
GET THE INFORMATION THEY NEED TO MAKE DECISIONS ABOUT
THE PROGRAMS THEIR CHILDREN ARE WATCHING.**

I AM URGING THE FCC TO SET A DATE TO ESTABLISH CLEAR GUIDELINES FOR BROADCASTERS, AND NOTIFY ME ABOUT THEIR OBLIGATION TO SERVE MY COMMUNITY. PRESENTLY, BROADCASTERS IN MY COMMUNITY ARE NOT SERVING OUR NEEDS.

THANK YOU FOR ANY AND ALL ASSISTANCE THAT YOU CAN RENDER IN THIS PROCESS.

SINCERELY,

DOSHIA HARRIS

**Ms. Marilyn Hill
6370 Forest Down Circle
College Park, GA 30349**

February 25, 2000

**Chairman William Kennard:
Federal Communications Commission
445 12th Street, NW
Washington, DC 20554**

Dear Chairman Kennard:

I am responding to The Notice Of Inquiring on the public interest obligations of broadcasters.

It is very important that the FCC set a date to establish clear guidelines for the broadcasters in my local community that are sending digital signals. It is unfair for the broadcasters to be given free public airwaves and not meeting the needs of my community.

Television plays an important role in my home, and I am concerned about the lack of local programming addressing the needs in my community such as:

- **The lack of programming accessible to the disabled.**
- **The lack of Spanish speaking programs**
- **The lack of programs portraying minority in positive roles**
- **The lack of African American local programs**
- **The amount of violence on television and the high cost receiving digital signals.**

Again, I urge the FCC to establish clear guidelines for broadcasters in my community who are sending digital signals as soon as possible.

It is important for people like me to know what I can expect from my local broadcasters in return for them getting such valuable public resource - free airwaves.

Thank you for your time and effort for making it possible for me to participate in the inquiry.

Sincerely,

Marlyn Hill

**Ms. Carolyn Jenkins
525 Cotillion Court
Stockbridge, GA 30281**

February 19, 2000

**Chairman William Kennard:
Federal Communications Commission
445 12th Street, NW
Washington, DC 20554**

Dear Chairman Kennard:

I am responding to The Notice of Inquiring on the public interest obligations of broadcasters.

I am writing as a parent and a concerned citizen. There are several reasons why I am urging you to set clear guidelines for broadcasters:

- Lacking of hiring and promotion of minorities within the industry.**
- Not enough digital Broadcast station providing closed captioning an descriptive services for the blind of PSA's**
- To much sex, violence and inappropriate language over the air-waves.**
- Digital stations are not reaching out to enough community leaders and neighborhood associations to determine our community needs and interest.**

I am recommending that broadcasters be required to employ and promote more minorities. They should provide enhanced closed captioning or video descriptive services for the disabled. They also should provide an easy to understand independent ratings system about the sexual and violent content of programs, ascertain the needs of all the segments of our community and air programs accordingly.

Thank you, I urge you to set clear guidelines for broadcasters as soon a possible and thank you for your cooperation.

**Sincerely,
Carolyn Jenkins**

**Mrs. Pam Parks
10095 Clearwater Trail
Jonesboro, GA 30238**

February 24, 2000

**Chairman William Kennard:
Federal Communications Commission
445 12th Street, NW
Washington, DC 20564**

Dear Chairman Kennard:

I am responding to The Notice of Inquiring on the public interest obligations of broadcasters.

My family and I enjoy watching television programs, however there have been times that I was embarrassed by some of the programs that my local broadcasting station aired. Television can be entertaining, educational and relaxing or it can cause people to be passive and uncreative, or even become violent. While I oppose government censorship, I do think parents should get the information they need to make decisions about programs their children watch. I recommend that digital broadcasters be required to provide an easy to understand independent rating system about the violence and sexual content of programs. The present ratings system that we presently have must be improved upon. I also recommend that children should not be bombarded with commercial advertisements. Television can influence children to want and buy things that are not good for them. Digital broadcasters in my community should be limited to no more than four (4) commercials, no more than sixty seconds long, per hour during children programs.

I am urging the FCC to set a date to establish clear guidelines for broadcasters that are in my community. The airwaves are a public trust and I want local broadcasters that are receiving free airwaves to be more responsible to my community needs.

Thank you for this opportunity to submit my recommendations in the inquiry dealing with public interest obligations of local broadcasters.

Sincerely,

Pam Parks



COLUMBIA CONSUMER EDUCATION COUNCIL

P. O. Box 212101, Columbia, South Carolina 29221-2101

Phone: (803) 551-0061 Fax: (803) 731-2446

E-Mail: CCECSC@AOL.COM

February 26, 2000

**Chairman William Kennard
Federal Communications Commission
445 12th Street, NW
Washington, D.C. 20554**

Dear Chairman Kennard:

We are responding to the Notice of Inquiry on the public interest obligations of broadcasters.

We urge the FCC to set a date to establish clear guidelines, broadcasters in my community are sending digital signals and we have a right to know what their obligations are to serve me.

We think local broadcasters should be required to reach out to ordinary citizens and local leaders to determine community needs and interests. This process of reaching out and involving the community should serve as the station's guide to addressing these needs through news, public affairs, children's and other local programming, and public service announcements. The public input should be invited on a regular basis through postal and electronic mail services as well as broadcast announcements. The call for requests for public input should be accessible to the disabled. Also, the stations should report quarterly during the year to the public on their findings.

Digital broadcasters should provide one public service announcement for every four (4) commercials, with at least equal emphasis placed on independent and locally produced PSAs addressing a community's local needs. PSAs should run in all day parts including in primetime and at other times of peak viewing. PSAs should not be a substitute for in-depth public affairs programming.

Some broadcasters may claim to be addressing the above recommendation, however in my community these things are not being done.

We would like to see the above recommendations be implemented in the future and much more.

Again, we urge you to set clear guidelines as soon as possible.

Thank you for this opportunity to participate in the inquiry into the public interest obligations of broadcasters.

Sincerely,

Angela H. Frazer

**Matilda Foster-Garner
1024 Slashpine Lane
Columbia, South Carolina 29203**

February 21, 2000

**Chairman Kennard
Federal Communications Commission
445 12th Street, NW
Washington, DC 20554**

Dear Chairman Kennard:

I am responding to the Notice of Inquiry on the public interest obligations of broadcasters. I am a single parent and a community volunteer.

I understand that television broadcasters in my community have begun using additional public airwaves to broadcast digital television signals. In my community television plays an important and powerful role, and I am deeply concerned about the amount of violence and sex on television, the lack of programming accessible to the disabled, the added cost to consumers who are receiving digital signals, the numbers of commercials during children's programming and the lack of local programmings addressing the needs in my community.

Many of the local broadcasters are not meeting the needs in my community. Therefore, I am urging the FCC to set a date to establish clear guidelines for the broadcasters in order for me to know what their obligations are to serve me.

Thank you for allowing me to share in the inquiry.

Sincerely,

Mrs. Matilda F. Garner

From: CCECSC@aol.com
Date: Wed, 15 Mar 2000

Dorothy Garrick
1613 Fairhaven Drive
Columbia, South Carolina 29210

March 7, 2000

Chairman William Kennard
Federal Communications Commission
445 12th Street, NW
Washington, D.C. 20554

Dear Chairman Kennard:

I am responding to the Notice of Inquiring on the public interest obligations of broadcasters.

It is imperative that the FCC set a date as soon as possible to establish clear guidelines for the broadcasters in my local community that are sending digital signals. It is unfair for the broadcasters to be given FREE public airwaves and not meeting the needs of my community.

On March 7, 2000 I visited one of my local broadcasting station, SCETV in Columbia, South Carolina to inspect the public files and was not allowed to see the files.

These are some of the reasons I was given by Ms. Kathy Gardener-Jones, Vice President-SCETV as to why I could not inspect the public files:

-I needed to file a Freedom of Information request, unless I explained exactly what I was looking for in the public files. (She assumed I did not know what Freedom of Information meant, so she proceeded to explain it to me and how to file).

-I needed to tell her exactly what I was looking for in the public files.

-I could not see the employees personnel files.

-Public files are not in one (1) location.

-I needed to go to different areas in the building to inspect the public files.

-Staff is very busy and don't have a lot of time.

-Staff needed to know exactly how much time I would need to inspect the public files.

-A staff member had death in his family.

-I needed to make an appointment to see the public files.

-ETC----

Again, I urge the FCC to set clear guidelines for broadcasters in my community to make sure they understand their obligations to the community for receiving FREE use of the public airwaves.

I would truly appreciate any and all assistance you can render in this inquiry.

Sincerely,

Dorothy Garrick



February 22, 2000

Chairman William Kennard
Federal Communications Commission
445 12th Street, NW
Washington, D.C. 20554

Dear Chairman Kennard:

On behalf of the Carolina Peace Resource (CPC), we are responding to the Notice of Inquiry on the public interest obligations of broadcasters.

We believe that local broadcasters should be required to: provide datacasting services to non-profit and educational institutions in the local community; set aside a minimum of 7 hours each week to provide quality educational programs; digital broadcasters should be limited to no more that four (4) commercials, no more that sixty seconds long, per hour during children's program; digital broadcasters should be required to provide an easy to understand independent ratings system about the violent and sexual content of programs. Through the increased information capability of digital technology the present rating system can be substantially improved upon.

Again, we urge you to set clear guidelines as soon as possible.

Thank you for this opportunity to participate in the inquiry into the public interest obligations of broadcasters.

Sincerely,
Rebecca Rogers

A. P. R. I.

A. PHILIP RANDOLPH INSTITUTE
SOUTH CAROLINA STATE A.P.R.I.

February 28, 2000

Dear Chairman Kennard:

I am responding to the Notice of Inquiry on the public interest obligations of broadcasters. I am President of the A. Phillip Randolph Institute and a member of the S.C AFL-CIO Board of Directors and a parent.

I urge the FCC to set a date to establish clear guidelines for broadcasters in my community sending digital signals. It is my right to know what their obligations are to serve me, especially since they use public airwaves FREE.

I am recommending that broadcaster should:

- (1) Whether it is in programming, political discourse, hiring, promotion, or business opportunities within the industry, digital broadcasters must make an effort to reflect the nation's diversity. I also recommend that broadcasters seize the opportunities inherent in digital television technology to support these goals and to report quarterly to the public on their efforts.
- (2) Children should not be bombarded with commercial advertisements or with advertising disguised as entertainment or educational programs. Also, I recommend that digital broadcasters be limited to no more than four commercials, no more than sixty seconds long per hour during children's programs.
- (3) As a parent I should get the information about the independent rating system in a form that's easily understood in order for me to make the proper decisions about what programs my children should watch.

Majority of the broadcasters in my community are not addressing the recommendations that I have outlined above.

Again, I urge you to set clear guidelines as soon as possible for the broadcasters.

Thank you for this opportunity to participate in this process.

Sincerely,

A handwritten signature in cursive script, appearing to read "Luther Simpson". The signature is written in black ink and is positioned below the word "Sincerely,".

3

MIDWEST

Illinois

Tab D-3a

Cynthia Canary
The Illinois Campaign for Political Reform
Chicago, IL
2/28/00

Rose Economou
Columbia College
Chicago, IL
3/23/00

Sara Livingston
Jonathan Arnold
Nick Arvanitis and Arjumand Khan
Scott Blake
Virginia Matos
Erica Trocchio
Zorabel Valenciano

Mary Ellen Guest
WITS-Working In The Schools
Chicago, IL
3/22/00

James C. Jones
ChildServ
Chicago, IL
3/13/00

Ricardo Loza
Local 46/Service Employees International Union
Chicago, IL
2/29/00

Commissioner Sheila Lync
Department of Public Health, City of Chicago
3/21/00

Gail Parson
Illinois Public Interest Research Group
Chicago, IL
3/1/00

Gordon Quinn and Wm. Jason McInnes
Kartemquin Films, Ltd.
Chicago, IL
3/2/00



February 28, 2000

DOCKET # 99-360

Dear Chairman Kennard:

I am writing in response to the Notice of Inquiry on the public interest obligations of broadcasters.

On behalf of the over 125 Illinois residents that have signed the enclosed letter calling on Illinois broadcasters to devote more time to campaign and election coverage, I urge the FCC to establish clear guidelines on the public interest obligations of commercial television stations.

Broadcasters have been given access to the public airwaves without charge and it is their duty and obligation to serve the needs of the public. Stations that earn massive and rapidly escalating revenue from political advertising, yet devote only minimal time to substantive political coverage are doing the public and, indeed, our democracy a great disservice.

We urge the FCC to establish firm guidelines requiring broadcasters using the digital spectrum to meet at least the minimum recommendation of broadcasting five minutes a night of candidate-centered discourse in the 30 days preceding a primary or general election.

Thank you for your consideration.

Sincerely,

Cynthia Canary
Director

325 W. Huron, Suite 304
Chicago, IL 60610
phone: 312-335-1767
fax: 312-335-1067
www.ilcampaign.org

director
Cynthia Canary

coordinator
James Kales

chair
Hon. Paul Simon



Money Shouldn't Be All that Talks in the Next Election A Message to Illinois Broadcasters

As political contributions flood into the 2000 campaign at unprecedented levels, we write to voice a concern - and make an appeal - about the role of broadcasters in our democracy. More than one million political ads are expected to run on television next year. Candidates in 2000 will spend six times more (in inflation-adjusted dollars) on television ads than candidates did in 1972, yet voter turnout is expected to continue a steep four-decade long decline. Citizens are turned off by the ads and by the money chase that pays for them.

We call on you to open the nation's airwaves in 2000 to a different kind of campaign communication - one whose currency is ideas, not money. A blue-ribbon panel appointed by President Clinton - and made up of broadcast industry executives as well as public interest advocates - has recommended that television stations voluntarily air five minutes a night of "candidate-centered discourse" in the month preceding all primary and general elections.

We urge the networks to take up this challenge and broadcast brief nightly issue forums with the presidential candidates. We urge Illinois stations to do the same for our federal, state and local candidates. These segments could take a variety of forms, including interviews, issue statements or mini-debates.

From whom much has been given, much is expected. Broadcasters have been given licenses valued at tens of billions of dollars, free of charge, to operate the public's airwaves. In return, you have pledged to serve the public interest. We can think of no greater public service at the start of a new millennium than to provide citizens with the information they need to choose their future. Nightly forums can help break the hold that money and ads have on our political campaigns.

Jimmy Carter

Walter Cronkite

Gerald Ford

Hon. Paul Simon-Illinois Campaign for Political Reform, and the following concerned Illinois citizens:

*Bev Adamczyk-LWV Lake Forest/Lake Bluff, Alberto Altamore-IL Coalition Against Unfair Utilities, Theresa Amato-Citizen Advocacy Center, Mehrdad Azemun-Chicago Recycling Coalition, Raymond Baranak-G.A.I.N., Henry Bayer-AFSCME, Charles Benton-Benton Foundation, Margaret Blake-Reaume-LWV Lake County, Diane Brown-ILPIRG, Anita Buchholz-LWV Batavia, Carol Busching LWV Rochelle, Hon. Dawn Clark Netsch, Kathryn Clay-LWV Waukegan, Hon. Jerry Costello, Nancy Cowles-Coalition for Consumer Rights, Hon. Tom Dart, Jeanne Davick-LWV Elmhurst, Hon. Miguel Del Valle, Susan Denecke-LWV McDonough, Hon. Leonard Deville, Ellen Dick-IANO, Hon. Kirk Dillard, Arlene Doblin-LWV Winnetka, John Donahue-Chicago Coalition for the Homeless, Michael Doyle-ILCenter for Citizen Involvement, Hon. Richard Durbin, Tina Erickson-LWV Libertyville/Mundelein, Hon. Judy Erwin, Jan Flapan-LWV IL, Hon. Barbara Flynn-Currie, Joan Fragen-LWV Winnetka/Northfield, Hon. Jack Franks, Hon. John Fritchey, Hon. Susan Garrett, Hon. Adeline Geo-Karis, Kirk Goltry-United We Stand, Karen Grafe-LWV Park Forest, Rev. Dominic Grassi-St. Josaphat Church, Terry Griffin-LWV Oak Park/River Forest, Jacky Grimshaw-Center for Neighborhood Technology, Hon. Debbie Halvorson, Hon. Julie Hamos, Lawrence Hansen, Ross Harano-Asian Pacific American Democratic Org., Robert Hercules-Media Process Group, Hon. Jay C. Hoffman, Jim Howard-IL Common Cause, Laurie Huget-LWV Oak Park/River Forest II, Kevin Jackson-Chicago Rehab Network, Hon. Jesse Jackson, Jr., Barbara Johnson-LWV JoDaviess, Dan Johnson-Weinberger-MDC, Jan Korsvik-LWV Cook County, Hon. Carolyn Krause, Eugene & Barbara Krell-Protestants for the Common Good, Hon. Louis Lang, Laura Lee-LWV Glen Ellyn, G. Segvane Lawrence, Ricardo Loza-SEIU, Arthur Lyons, Pearl Mack-LWV Dolton Harvey/Riverdale, Hon. Mike Madigan, Hon. Lisa Madigan, Carol Maier-LWV Chicago, Clayton Marquardt-IEA, Rose Marsaglia-LWV McLean County, Rev. James Martin-St. Benedict The African-West, Jane McAfee-LWV Greater Rockford, Hon. Kevin A. McCarthy, Michael McConnell-AFSC, Hon. Jack McGuire, Patricia Mendoza-MALDEF, Hon. Abner Mikva, Hon. Newton Minow-Sidley & Austin, Hon. Andrea Moore, Hon. Rosemary Mulligan, Hon. Diana Nelson, Kathy Nesburg-LWV Cook County, Hon. Philip Novak, Bruce Orenstein-Chicago Video Project, Barbara Pape-LWV Wheaton, Edna Pardo-LWV Chicago, Patrick Patt-Oak Grove School District, Rev. John J. Pawlikowski-CTU, Stephen A. Perkins-CNT, William Peterson, Hon. David Phelps, Hon. John E. Porter, Hon. Pat Quinn, Elce Redmond-Access Living, Hon. Patricia Reid Lindner, William Rentschler-Voice Publishing USA., Richard & Ruth Riha-OWL, Claire Safford-LWV Adams County, Mary Schaafsma-PCG, Carol Schaal-LWV Palos/Orland Park, Hon. Jeff Schoenberg, Hon. Doug Scott, Hon. Sonia Silva, Jim Slama-SUSTAIN, Hon. Ricca Slone, Annette Smith-LWV Naperville, Hon. Michael Smith, Faith Smith-NAES College, Susan Straus-Chicago NOW, Jerry Stermer-Voices for Illinois Children, Hon. Dave Sullivan, Marge Sutaps-Health & Medicine Policy Research Group, Mary Ann Tate-LWV Park Ridge, James Thindwa-Metro Seniors in Action, Alene Vlakanas-IL Arts Alliance, Suzanne Wear-LWV Wheaton, Margie Weiss-LWV Highland Park, Sandy Wellan-LWV Oak Park River Forest, Hon. Rick Winkel, Robert Wordlaw-Chicago Jobs Council, Quentin Young, MD, Jane Pugh-Hyde Park-Kenwood Community Conference, Milton and Esther Edelman-LWV Carbondale, Rev. Dr. David Chevrier-Wellington Ave. United Church of Christ, Margie Nicholson-People for Better TV, Rev. Calvin S. Morris-Community Renewal Society, Don Turner-Chicago Federation of Labor, Gordon Quinn-Kartemquin Films, Stanley Cambell-Rockford Urban Ministries, Steve Bruesewitz-Kane County Democrats *Organizations for Identification only*



Summary of Findings

All three major broadcast networks were monitored each night from February 2 to February 17 for candidate-centered discourse [CCD]. The programs monitored were the nightly newscasts and newsmagazines. Some findings:

- Average nightly CCD for all networks - 80 seconds
- Average nightly time devoted to campaign stories on all networks - 12 minutes, 24 seconds
- Total CCD for all networks over 16 days - 23 minutes, 2 seconds
- Total time devoted to campaign stories on all networks - 199 minutes, 4 seconds
- On average, each network aired 29 seconds of CCD each night monitored:

	NBC	ABC	CBS
Total CCD (for 16 days)	7:52 (472 seconds)	8:11 (491 seconds)	6:59 (419 seconds)
Average Nightly CCD	30 seconds	31 seconds	26 seconds
Total Campaign Air Time	76:05 (4565 seconds)	69:25 (4165 seconds)	53:34 (3214 seconds)
Average Nightly Campaign Air Time	4:45	4:20	3:21

- NBC ran the most issue stories; CBS ran the fewest.

	NBC (n=35)	ABC (n=42)	CBS (n=36)
Issue	34.3%	28.6%	8.3%
Strategy	54.3	61.9	77.8
Other	11.4	9.5	13.9

- Average story length across all networks: 1 minute, 46 seconds
- Average CCD per story: 12 seconds
- On average, each network story contains 11.6 percent CCD.

The study is being conducted in conjunction with the Annenberg Public Policy Center at the Annenberg School for Communication at the University of Pennsylvania and the Annenberg School for Communication at the University of Southern California. It is funded by The Pew Charitable Trusts and the Ford Foundation.

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JOURNALISM DEPARTMENT

March 23, 2000

The Honorable William Kennard
Chairman
Federal Communication Commission
445 12th Street, NW
Washington, D.C. 20554

Re: Inspection of the "Public Files" of Chicago's Television Stations in Response to the
FCC Notice of Inquiry Docket #99-360

Dear Chairman Kennard:

Television broadcasters must be held accountable to their "citizen-viewers." I feel the state of the "public file" is in jeopardy.

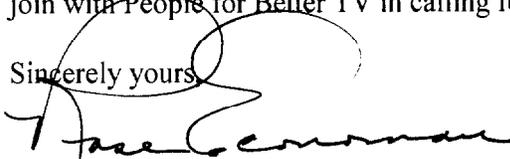
I worked in broadcast news for over twenty-two years and had always "honored" the notion of public service and the importance of a public file. But, not until I assigned my Investigative Reporting students to inspect those files, did I come to appreciate their importance to fulfilling the spirit of the "democratic process" and demonstrate respect for the citizen-viewer.

- Why are our two public television stations – WTTW and WYCC – held to a different standard? Neither station allowed my students to read viewer letters.
- Why are stations so worried that citizens will see complaint letters? Why are they afraid? Do they have something to hide?
- Why are stations so disinterested in maintaining a "current" public file? Some do not even fulfill the minimum requirements. Has a "license to broadcast" come to mean so little?

This is not a time for loosening control of television broadcasting responsibilities. Stations must be held to a higher standard. I do respect their first amendment rights, but winning a license should not mean settling for the lowest standards of programming, public service or record keeping.

I hope the FCC will move forward by mandating public interest standards and responsibilities. I join with People for Better TV in calling for a "notice of proposed rulemaking."

Sincerely yours,


Rose Economou
Professor of Journalism



TELEVISION DEPARTMENT

March 22, 2000

Chairman William Kennard
Federal Communications Commission
445 12th Street, NW
Washington, D.C. 20554

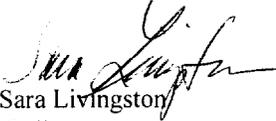
Dear Chairman Kennard

In response to the FCC's Notice of Inquiry docket #99-360, I asked my class in Television & Society at Columbia College in Chicago to watch and evaluate what our local broadcast channels had designated as their educational programming for children. Last week my students watched children's programming on Channel 2 (CBS), 5 (NBC), 7 (ABC), 9 (WGN), and 32 (FOX).

This week they turned in their reports and we discussed their findings in class. The students were concerned about diversity and said that the representation of minorities was lacking in all but one of the children's programs that they reviewed. The only program with substantial involvement of minorities was Magic School Bus; many of the other children's programs had no minority characters. Programs that were notable for their lack of minority characters included Pep'r Ann and Squigglevision. The students also noted that the programming on Channel 5 (NBC) had diverse characters, but that most of the programming was sports programming featuring and targeted to boys.

We join with People for Better TV in calling upon the FCC to hold hearings on the public interest obligations of broadcasters where we can discuss the lack of diversity in children's programming and other relevant issues.

Sincerely,


Professor Sara Livingston
Columbia College

Columbia College Chicago
624 S. Michigan Ave. Suite 1300
Chicago, IL 60605

March 22, 2000

Mr. Mark Lloyd
People for Better TV
818 18th Street, NW Suite 505
Washington D.C. 20006

Dear Mr. Lloyd,

As part of your investigation through Columbia College and Rose Economou, I visited the NBC affiliate-WMAQ-TV Chicago Channel 5 with a witness, Michael Cappozzo. As per our instructions, we asked to see the public files. After a wait of approximately 45 minutes, we were shown the file drawer containing only public letters and e-mails, but were not shown where other current and important documents were kept.

Upon gaining entrance to the main office, we were treated with courtesy and led to the files. We were given two chairs adjacent to the filing cabinet, albeit with no table, and were told that if we had any questions, that we were to ask.

Upon examining the files, we found them to be in good order. All public letters were kept in manila envelopes sorted by month. They were current up through the end of February, 2000. When we asked about the most recent months letters, we were told that they were placed in the file at the end of every month in order to have adequate time to respond to them.

There were, however, glaring omissions. The e-mails were only current through September, 1999. When we asked about the whereabouts of the past six months of e-mails, we were told that the woman in charge of those was out of town at the time, which we confirmed through the security guard at the front desk.

Also, we were not shown documents about programming addressing community issues, records concerning children's programming commercial limits, as well as quarterly reports to the FCC.

When we asked to make copies of certain letters, we were immediately taken to a copy machine, and were charged ten cents per copy.

Upon our departure, we again were treated cordially, and were thanked for stopping in. All in all, our visit was without incident, and our task was completed easily.

In discussing my experience with classmates, I found that my experience was not entirely unique. Although we were treated courteously, the public files were guarded to some extent. Unless you knew what to ask for, you were not given access to it. In other words, compliance to FCC regulations appeared to be minimal.

Sincerely,



Jonathan Arnold
Student of Journalism

March 20, 2000

The Honorable William Kennard
Office of the Chairman of FCC
445 12th Street, NW
Washington, D.C. 20554

Re: FCC Requirements

Dear Mr. Kennard:

We visited Channel 20, WYCC, a PBS station. This station is housed on the campus of Daley College, and primarily broadcasts telecourses. We visited the station to see whether this station was complying with FCC regulations or not. We were interested in two major things: the public files and the attention given to children's programming. We were also anticipating finding comments from viewers in the community regarding the station's programming.

Upon entering WYCC we were treated discourteously by the secretary, when we asked to see the public file. She said, "You can't just walk in here and ask to see the public files and expect everyone to drop what they are doing for you!" The secretary asked us to wait in the lobby, where we waited for twenty minutes. Then we were directed to a room where we were allowed to look over the public files. The station's public file consisted of only three binders, which contained no letters from the public. Both the secretary and the Director of Programming told us they are not required to keep viewer's comments in the file. However, they assured us that they do respond to viewer's letters but they are not required to show us any of those letters and admitted that they don't even keep them very long.

Their file was in good condition but was not current, and contained many letters from Cable companies confirming that they would be carrying WYCC. The file also contained master programming logs but none were from the current year. The station also keeps employment verifications in the public file as well.

Overall, we were disappointed that WYCC, a PBS station, did not take the initiative to go beyond what is expected of them. We expected the files to at least include some letters from their viewers. We feel that their public file was disorganized which indicates a disrespect towards their viewers.

Respectfully,

Nick Arvanitis and Arjumand Khan
Nick Arvanitis and Arjumand Khan

March 22, 2000

The Honorable William Kennard
Office of the Chairman
Federal Communications Commission
445 12th Street, NW
Washington, D.C. 20554

Dear Chairman Kennard:

This letter is in regards to my visit at WPWR-TV/Ch.50, in Chicago, Illinois. Along with my partner, Blake Palmateer, I visited the station to inspect their public file. Overall, the station made things very difficult for us.

After asking to see the public file, we were told we would be unable to look at the entire public file. The reasoning was that the file was too large. They then asked what we would need to see, and brought us the information we asked for. We were then directed to a conference room to search through the files.

My partner and I then asked to make copies of letters from viewers, but were told the station would be unable to make the copies. Their explanation was there was no one that had time to make the copies. We were informed the copies would have to "go through the process" of getting to us. I am not sure if WPWR-TV/Ch.50 is complying with FCC guidelines or not, but I do feel they could have allowed us to view the file and given us the photocopies we requested.

Thank you for reviewing this letter and I hope it has been helpful.

Sincerely,

Handwritten signature of Scott A. Blake in black ink, consisting of a stylized 'S' followed by 'cott' and a circled 'A', and 'Blake' written to the right.

Scott A. Blake

Apartment 1121
400 E. Randolph St.
Chicago, IL 60601

Columbia College Chicago
600 S. Michigan Ave
Chicago, IL 60605

The Honorable William Kennard
Office of the Chairman
FCC
445 12th Street NW
Washington, DC 20554

Dear Chairman Kennard:

As part of our investigation in conjunction with People For Better Television, we visited WGN Channel 9 in Chicago on March 8, 2000. We were disappointed not to find the letters written by members of our class in the public file.

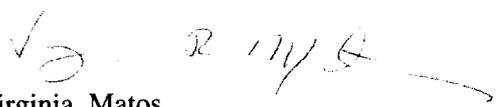
Upon entering the station at 4:00 p.m., Erica Trocchio and I were greeted by a security officer who asked for our signatures at the front desk. Soon after, we were asked to wait in the station cafeteria until they could contact Helen Hoffman who would be escorting us to the public files. When Helen arrived, she led us through highly secured doors and through the tunnels of the station until we reached the office. She thoroughly explained the order of the files to help us in our search. Ms. Hoffman also offered to make copies if necessary.

Our first search was to confirm WGN's receipt of our student letter to the station. Ms. Hoffman explained that December was the end of their fourth quarter and that new letters wouldn't be available until April 10th.

We began to search for viewer complaint letters through the public file and came up with few complaints. Those available pertained to requests for the Bozo Show and strong sexuality in it's prime time programming. The main concern in the public file pertaining to children was the question of why WB Kids, their cartoon segment, was taken off the air. It was interesting to find that the station had a separate file for television violence. We were led to believe that WGN responded letters within ten days of arrival. Although our student letter has not yet been answered.

As a student of journalism and media, I interpreted from my investigation that the people at WGN-TV were cooperative in giving us information. Although I was disappointed to learn that the station operated on a quarter system. Overall, their public files were orderly, the personnel was courteous and we were given ample time to view the files.

Sincerely,


Virginia Matos

Columbia College Chicago
600 S. Michigan Ave.
Chicago, IL 60605

The Honorable William Kennard
Office of the Chairman
FCC
445 12th Street NW
Washington, DC 20554

Dear Chairman Kennard:

On March 8, 2000, my fellow investigative reporter, Virginia Matos and I visited Channel 11/ WTTW-TV located in Chicago. In conjunction with People For Better Television, we were to evaluate the conditions of the stations FCC public files. Needless to say, we were disappointed in the lack of full disclosure.

We arrived at WTTW at 2:50pm, we left the building at 3:10. We asked the station receptionist to see the FCC files, she was very polite and we were assisted immediately in viewing the files.

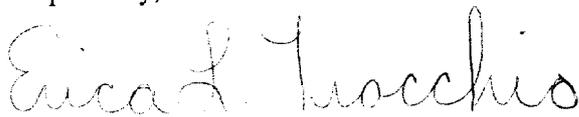
In the first public file we found numerous letters from TCI cable. There was also a great deal of letters with law firm letter heads pertaining to section 76.58 (commissions rules). The only viewer letter in the file was a complaint about not being able to get a clear reception when watching WTTW. A second file entitled "Material relating to FCC Investigation or Complaint file" was empty.

My fellow reporter and I did not find a single viewer letter. We asked Chris if there were any other public files that we did not see, she replied, "No". I then asked her where the viewer letters were kept, and she told us that Channel 11/ WTTW-TV was not required to keep any viewer letters on file.

My next question to Chris was what is the name of the children's contact for children's programming? She told me "there is no one in charge of the children's programming, it is all done through PBS."

Overall, I was dissatisfied with our station visit. I went to the station believing there would be numerous letters from viewers, complaints and compliments, in the public file. I found it very hard to believe that a highly recognized children's station had no contact for children's programming. I am curious to know why WTTW is not required to keep any viewer mail on file? What makes them an exception to the rule? Thank you for your time.

Respectfully,



Erica Trocchio

March 22, 2000

Honorable William Kennard
Office of the Chairman
FCC
445 12th Street NW
Washington, DC 20554

Dear Honorable William Kennard,

We are writing you this letter to report the results of our investigation of the “public files” at two local television stations. My partner Cecilia Rios, and I attend Columbia College-Chicago, and were assigned to visit WGBO-TV, one of two Spanish speaking stations and WBBM-TV.

As you already may know, students wrote letters to the stations and commented on TV programming. What we found was that none of these letters were in the FCC files at WGBO-TV (Univision) or WBBM-TV (CBS).

At Channel 2, WBBM-TV (CBS), their files were organized, but only contained a few letters since January 2000. When we asked them about the letters, they refused to comment. They weren't friendly and rushed us throughout the whole process.

At Channel 66, WGBO-TV (Univision), the visit went rather smoothly and they were very cooperative. We did not find the students letters and were told that the station does not post letters until they have been answered. However, they did file quarterly reports required by the FCC, i.e. hours of children programming they provide to their viewers.

In conclusion, the stations failed to keep “current” files open to public viewing. We were disappointed in the failure of both stations to comply with minimum FCC requirements. Neither station maintained complete public files. Hope this information has been of some help.

Sincerely yours,



Zorabel Valenciano

WITS

WITS - Working In The Schools

150 East Huron, Suite 900
Chicago, IL 60611
312.751.WITS phone
312.751.7244 fax

March 22, 2000

Mayor Richard M. Daley
Honorary Chairman

Joanne Alter
Chair

Robert B. "Bud" Lifton
President

Mary Ellen Guest
Executive Director

Chairman William Kennard
Federal Communications Commission
445 12th Street NW
Washington, DC 20006

Dear Chairman Kennard,

I am writing in response to your Notice of Inquiry #99-360. I am the executive director of Working in the Schools, an organization that recruits, trains, and transports tutors in the Chicago Public Schools. We have more than 600 volunteer tutors in 25 elementary schools. I am concerned about the influence of television on our culture and children. On March 3, 2000, I visited WMAQ-TV, the NBC affiliate in Chicago, with a colleague. We asked to see the public files and after a half-hour wait we were welcomed to the station and directed to the file cabinets. Here are our observations.

In reviewing the files relating to children's programming and in comparing data from 1994 and 1999, we noticed that all of the children's programming in 1999 was generated by the network or syndicated. In 1994 some of the children's programming was locally produced including a half-hour show "News for Kids - Chicago Style." We would like to see more locally produced programming for children on all local broadcast stations. We also noticed that the 1994 file included an "FCC Children's Report - Commercial Limits" and that there was no such document in the 1999 file.

The station program director provided us with an impressive publication, "Creating Critical Viewers," but we received no additional information about distribution and impact of the publication. We noted that the logos of all the media partners were included on the cover, but that no local or national organizations or experts on children's television viewing were mentioned.

The station included a list of local PSAs on children's issues that were run between January and March 1999 in their children's file. There were 169 PSAs listed.

- Out of the 169 PSAs, 143 announcements (85%) were generated by NBC, WMAQ, or the National Academy of Television Arts and Sciences. While these messages may have a public service component, it appears that the station is using them as a vehicle for self-promotion. Any public service message would be more credible coming from a reputable local nonprofit organization.
- In this entire three-month period, only 4 announcements featured local nonprofit organizations: 3 were for the Harold Washington library and 1 was for the Salvation Army. In a city with so many vibrant nonprofit organizations serving children, including Working in the Schools, it is disappointing to see that virtually none are included in the public service announcements carried by WMAQ.

Working In The Schools – page two

- Finally, all of the PSAs were run on Saturday morning. There were no after-school programs or messages for children.

It is time-consuming and expensive (downtown parking is \$14 per hour) to visit local broadcast affiliates and review their public files. We encourage the FCC to require stations to post reports about their children's programming, public service announcements, and public affairs programming on the Internet. This would make it much easier for the public to review and comment on station activities at WMAQ and the other local broadcast affiliates.

We join with People for Better TV in calling on the FCC to hold public hearings on the public interest obligations of broadcasters. In exchange for their free use of the public airwaves, broadcasters should be more responsive to the needs of local children, citizens and nonprofit organizations.

Sincerely,

A handwritten signature in cursive script that reads "Mary Ellen Guest".

Mary Ellen Guest
Executive Director



8765 W. Higgins, Suite 450, Chicago, Illinois 60631
www.ChildServ.org
773.693.0300 FAX 773.693.0322

March 13, 2000

RE: Docket # 99-360

Chairman William Kennard
Federal Communications Commission
12th Street SW
Washington, DC 20554

Dear Chairman Kennard,

As an organization that cares about children, we feel it is very important to respond to the FCC's Notice of Inquiry on the public interest obligations of broadcasters.

Television carries a great influence with our children and as such, our organization and many like it were glad when the Children's Television Act was given some teeth several years ago. The requirement that stations air three hours of educational and informational programs each week was a great step forward. What a great tool for parents and caregivers who are looking for good solid programming for children.

But while the idea is sound, its execution has not been. I was dismayed to see the list of shows that broadcasters actually believe qualify for "E/I" designation. Not only are the designations of "E/I" programming hard to find if you are planning ahead because most newspapers do not carry the listing, but you must be quick and on time to find the designation as the show begins since the "E/I" logo appears only briefly on screen. And once you find them, I fail to see how some of these shows can be deemed educational or informational. For that matter, even if the "E" stands for entertainment, I fail to see how some of these shows make that grade either.

Much of the programming is clustered in early morning hours and is scattered with other programs that are not "E/I". Take for example, the programming last Saturday, which is supposed to be the time that children are drawn to television. On a recent episode of CBS' the *Rescue Heroes*, which airs at 10 a.m. on Saturday we learned that you never get in your car in the face of a flash flood and you always go to higher ground. Great lessons. Except the cartoon heroes literally delivered them to stranded and desperate people before they rescued them; stopping to scold them before they would allow them to be safe. This show also taught children that being a teacher is not as worthwhile as rescuing people.



And if we examine the other not-as-direct but not-subtle messages of the show, we see that if you want to be a hero, you must have a body that is out of proportion with all natural human beings. The men looked disproportionately muscular as though on steroids.

This show was followed by *Flying Rhino Junior High* which is also supposed to be an "E/I" show and I could little see what lesson we learned other than adults are buffoons.

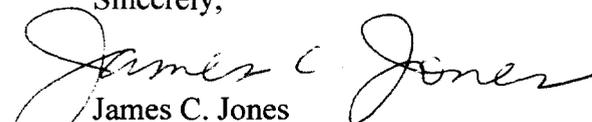
The programming on the other two network affiliates was just as disturbing. ABC-Channel 7 runs Disney cartoons in a Saturday morning block from 7:30 to 9:30 a.m. and while the shows *Recess* and *Science Court in Squigglevision* are exceptions, the majority of the shows teach children that it is vital to be cool, outsiders will always be treated poorly and although being yourself is very important, you had better be good looking, good at sports or well-dressed because brains work against you. These lessons we learned from *Pepper Ann*, *Sabrina*, *the Animated Series* and the short educational films in the morning block.

NBC-Channel 5 has dedicated its entire Saturday morning programming to half-hour teenage dramas/comedies like *City Guys*, *Hang Time* and *One World*. The theme last Saturday was *Just Say No to Drugs*. And while the programming has teenage stars, it's safe to assume it was watched by many who are pre-teens and younger, just as the teenage singing stars draw from a much younger crowd for their fan-base since younger children look to older ones as their role models. I know these programs have been touted as top-quality educational shows but I found the messages, the characters and the plots very simplistic in addressing complex issues. I would much rather see a group of thoughtful, real children discussing the problem of drugs. Also, the commercials on this block of programs bothered me. They were pushing some of the station's adult programs, one in particular about a serial killer on the show, *The Others*.

These shows smacked of the ones that were broadcast the first season the "E/I" requirements were in place. At that time, industry executives said, "Just give us time and we will develop quality children's programming". Enough time has past and I have not seen a proliferation of *Magic School Bus* or *Bill Nye the Science Guy* but rather shows having no educational merit beyond the networks' designation.

I realize that television is an industry. I realize it must make a profit to survive. But the television industry is profiting greatly from the public – control of the new digital stations – so it is reasonable that we the public must ask for accountability. The only way to do that is to hold public hearings where people can air their concerns for our children and their future.

Sincerely,


James C. Jones
President / CEO



February 29, 2000

Chairman William Kennard
Federal Communication Commission
12th Street, SW
Washington, D.C. 20554

Re: NOI 99-060

Dear Chairman Kennard;

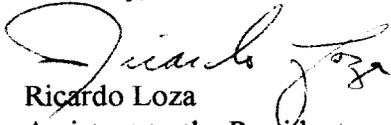
This is a formal complaint in response to your Notice of Inquiry # 99-360. On February 4, 2000, Ms. Margie Nicholson and I visited our local broadcaster, WLS-TV Channel 7, at their Chicago offices, at approximately 11:00 A.M. During our visit, we stopped at the front desk and informed Officer Donaldson we wanted to see the public files. We were instructed, that we could not see anyone without an appointment. I asked if I could use the phone to contact someone, he stated no. I then asked what number can I call (I was going to use my cell phone), and he told me to contact the phone company and refused to give me any number. We adjourned our visit without any public information.

This is an example of the lack of cooperation, a major broadcaster is exhibiting through their agents. How can you and the Federal Communication Commission expect citizens to examine the public files and comment in the public interest obligations for our local broadcasters if they will not ever allow us to review the files?

I urge you and the Commissioners to consider our objection to the disregard of the law and hold public hearings, to find out what the public thinks about television and the responsibility of broadcasters.

If you have any questions, please contact me at (312) 641-1516.

Sincerely,


Ricardo Loza
Assistant to the President

SERVICE EMPLOYEES
INTERNATIONAL UNION
AFL-CIO, CLC

309 W. Washington Street
Suite 250
Chicago, IL 60606
312.641.1516
Fax: 312.641.0773

cc: J. Williams
M Nicholson



City of Chicago
Richard M. Daley, Mayor

Department of Public Health

Sheila Lyne, RSM
Commissioner

333 South State Street
Chicago, Illinois 60604
(312) 747-9884
(312) 747-9888 (24 hours)
(312) 744-2960 (TTY)

<http://www.ci.chi.il.us>

March 21, 2000

Chairman William Kennard
Federal Communications Commission
12th Street, SW
Washington, DC 20554

Dear Chairman Kennard,

For nearly three years, the Chicago Department of Public Health has been overseeing an effort to prevent violence in Chicago by bringing together key people from city, state and federal government as well as academics, agencies, advocates and business leaders. The result was a massive citywide plan that we are now engaged in implementing under the umbrella of Prevent Violence! Chicago.

Part of what we looked at included what roles the public, newspapers, television and radio have played in helping to make violence an integral part of the fabric of our society. And when we pulled together the expert's statistics it was startling how much television we watch and what we see.

- By the time an average child completes elementary school, he or she has typically been exposed to 100,000 acts of violence, including 8,000 murders, according to TV-Free America.
- Of nearly 2,700 television shows viewed in one year, 57 percent of them contained some violent content and in 73 percent of all violent scenes, the perpetrator went unpunished, according to the National Television Violence Study
- Half of the violent acts identified in that study occurred in children's cartoons where violence was mostly depicted as humorous.

Given this and many other studies, we dedicated one whole implementation committee to the media. This team is charged with finding a way to successfully deliver the message that violence is a public health issue and we are in the midst of an epidemic. Further, the committee wants to ensure the media stay a vibrant part of Chicago by accurately reflecting people's concerns. That can happen only when the public becomes educated and discerning consumers.

So, we looked at the stations in Chicago. In fact, in accordance with FCC requirements, we went to inspect each of the major stations' files and see if they had received any letters or public comments on violent programming



Please
Recycle!



March 21, 2000
Chairman Kennard
Page 2

content or coverage of violence. Attached is a summary of what we found during those visits.

Our findings show people are concerned. It also shows people don't understand they have a voice in local programming. Indeed, that they have a responsibility to use that voice if we want the airwaves kept pertinent to this community.

This is why with all we know and we have learned, we believe it is vital the FCC hold public hearings. We urge you to do so since there will be double the stations on the dial with digital expansion looming in the near future. We need to ensure that television stations and the public develop a discourse that keeps the public involved in a station's public affairs and the stations involved with the public's concerns.

We hope you agree and we look forward to your response.

Sincerely,


Sheila Lyne, RSM
Commissioner

cc Monroe Anderson, WBBM-TV Channel 2
Bill Campbell, WLS-TV Channel 7
Merri Dee, WGN-TV Channel 9
Joanie Bayhack, WTTW-TV Channel 11
Delores Mebain, WMAQ-TV Channel 5
Wanda Wells, WFLD-TV Channel 32

**PREVENT VIOLENCE! CHICAGO
MEDIA IMPLEMENTATION TEAM
LOCAL TELEVISION STATION VISITS
SUMMARY**

Five local television stations were visited during the first week of March, 2000. In every case, employees were welcoming, cooperative and helpful. And at every station the materials found in the public files were similar: considerable viewer mail regarding station programming and program line-ups, and little to no viewer mail in the area of violence on television or related issues.

The introductory letter sent by Commissioner Lyne requesting a meeting and connecting the visit to the Chicago Violence Prevention Strategic Plan, proved helpful in nearly every case. All stations returned follow-up phone calls promptly, all put me in touch with the appropriate person to meet, and all (except one) set up a specific time for file review. (Only one stated that just dropping by would be fine, and that was accurate.)

Despite the introductory letter and a copy of the Executive Summary of the Plan, no one had heard of Prevent Violence! Chicago – not even the community affairs directors. Neither did anyone seem particularly concerned or engaged about the topic of violence on television and its effect on viewers.

That response mirrored the public files. There were countless file drawers, some stuffed, with viewer mail about everything from Howard Stern's persona to the quality of weather reporting, but almost nothing about violence on the airwaves.

All stations reported keeping their mail for a minimum of three years. One stated that they need to keep it until their FCC license renewal, now every 10 years.

At three out of five stations, all mail was placed together, no matter what the topic was. At two stations, there were specific "violence files" and one station, WGN which was visited first, kept the violence files separate, stating they were mandated to do so by the FCC. No other station had known about that mandate.

At one station, for example, there was a large four-drawer filing cabinet filled with several years of letters. From what I saw, there were only a couple of folders, like "4th quarter, 1999 Programming Violence Viewer Mail", which had a total of five letters. Only some of the five seemed loosely connected to the issue of violence.

The majority of violence letters echoed the same concerns: too much sexual content, too much explicit and degrading language, too many tasteless and demeaning programs that were inappropriate for family television.

A small number of letters made a connection between violence on television and violence in society. Some suggested there be more of a connection made for viewers between violent acts and real life consequences. Several letters expressed concern about the responsibility of the industry to provide "viable viewable material for the majority of families."

In addition to the viewer mail each station kept quarterly reports sent to the FCC about what public affairs programming had been aired and what the content of the show, news report or PSA was. Again, very little dealt explicitly with the issue of violence. Instead, there were categories that covered issues like race relations, government, the environment and health.

Finally, a couple of stations expressed an interest in the Media Committee's goals, the outcome of this investigation and the implementation of the Plan. Some recommended having people from the media serve on the committee, and others invited us back to share our findings and perhaps work participate on some public affairs programming in the future.

WGN TV - Channel 9

Helen Hoffman, Assistant to General Manager

This station kept their records in a separate room, in a large four drawer filing cabinet. All viewer mail was kept in expandable file folders, categorized by quarter and year. WGN was one of only two stations that had separate files called "Programming, Violence - Viewer Mail" Many station letters began "we like WGN and are loyal viewers but were concerned about a specific show." Other comments included:

- That was an undesirable show with crude sex scenes with repulsive and degrading moments... it takes good taste not violence to capture viewers.
- There is too much violence on TV and I believe it fosters violence in people who watch it. Please consider not showing reports like these.
- Kids and youth are bombarded with tasteless, violence and demeaning programs and are greatly influenced by such broadcasts. I believe that the recent acts of high school violence are connected to television programming.

But the vast majority of letters were concerned the Cubs games, Bozo Circus, Honeymooner reruns, millennium coverage, and the Walter Payton memorial. Comments about weather, local crime reports and late night movies also bulked up the files.

WMAQ TV - Channel 5

Sharon Pierson McNeal, Station Relations Director

This station kept much of the viewer mail divided into FCC Children's Reports, Political Mail, and local mail by category. For example, there seemed to be a considerable amount of requests and acknowledgments:

- Thanks for covering principal's day
- Please put more coverage re: mental health issues on the air
- Thanks for coordinating the coverage of xxx event, and bringing us visibility during our big day.

The station also kept extensive files with Email correspondence, responding to a range of issues from too many commercial interruptions, to disappointment with the fundamentally disgusting journalism. The station also kept quarterly reports on "Issues Programming" including America's Black Forum, Religion, Foreign Affairs, Governmental Concerns, etc.

WFLD TV - Channel 32

Wanda Wells, Public Affairs Director

This station had one folder called "Viewer Mail Regarding Violence 1992 - 1999." In it were a total of 25 letters, some discussing violence towards gays and other stereotyping, but the majority dealing with Jerry Springer and his "staged" violence scenes.

Several letters were kept from the "Turn off TV for a Day" campaign in 1992, but those and others seemed somewhat randomly incorporated into the violence folder.

WBBM TV - Channel 2

Monroe Anderson, Community Affairs

Most viewer mail and related material came in electronically and was kept on disc. It was an option to either review materials on disc, in someone's office, or to go into a small separate room to see what material had come in through the local mail. I chose the latter. And while mail was kept for approximately five years, the vast majority of it dealt with Howard Stern and his annoying antics.

WLS TV - Channel 7

Bill Campbell, Community Contact

This station kept three separate years of letters in a "violence file," which includes 1997 - about 20 letters, 1998 - four letters and 1999 - no letters. Some of the general mail was from disgruntled viewers complaining about "body bag journalism" and "black on white racism and visa versa." There was also several letters concerning hate crimes in Chicago, and violence programming being shown during the daytime and family viewing hours.



Illinois Public Interest Research Group
180 W. Washington St., 5th Fl., Chicago, IL 60602 (312) 364-0096
<http://www.pirg.org/illinoispirg>

Chairman William Kennard
Federal Communications Commission
12th Street, SW
Washington, DC 20554

March 1, 2000

Dear Chairman Kennard,

On behalf of the Illinois PIRG Education Fund, I am responding to the Notice of Inquiry Docket #99-360. As a statewide public interest research and public education organization with 20,000 members in Illinois, we are concerned that broadcasters have public interest obligations that are not being met. Now that broadcasters are using the digital spectrum, the issue becomes even more pertinent.

In this letter, I would like to reference the frequency that broadcasters air public service announcements (PSAs). Public service announcements are a way for stations to give back to the community in which they broadcast. If public service announcements are aired at all, they are aired when most viewers are asleep. We received a Video Release Usage Report from the Nielsen Sigma Service to monitor how often a particular PSA was played. The PSA that we monitored was produced by the Environmental Protection Agency (EPA) on the dangers of second hand smoke. The results were disappointing. Over 200 radio and television stations received the PSA, but only 20 aired the PSA at all. Unfortunately, the PSA was never aired during prime air time when most viewers would benefit. For example, one television station in Chicago aired the PSA 41 times from the end of June to the end of August, but most frequently aired the PSA from the hours of 2:00 a.m. - 5:00 a.m. In the two month period, the PSA only aired once at 9:30 a.m., 10:30 a.m., 11:00 a.m. and 12:30 p.m. when more viewers would watch television. Again, we are grateful the PSA was aired, but believe it is in the public's best interest to have PSAs aired during primetime.

We are asking the FCC to set a date to establish clear guidelines for the many public interest obligations that broadcasters owe the public. Thank you for this opportunity to participate in the inquiry regarding the public interest obligations of broadcasters.

Sincerely,

A handwritten signature in cursive script that reads "Gail Parson".

Gail Parson
Consumer Associate

NIELSEN SIGMA SERVICE
VIDEO RELEASE USAGE REPORT - HALF HOUR SUMMARY
MAY 10, 1999 - NOVEMBER 14, 1999

CLIENT ID : T101
 VIDEO RELEASE: EPA SECOND HAND SMOKE
 RELEASE TYPE : PSA

MKT RANK	DESIGNATED MARKET AREA	STA-TION	AFFL	DATE AIRED	DAY OF WK	DAY-1/2HR PART	LOCAL AIRED	VERSION
2	LOS ANGELES	KDOC	IND	06OCT99	WE	DT	3:30P	60
				08OCT99	FR	DT	10:30A	60
				09OCT99	SA	LE	12:30A	60
				12OCT99	TU	PT	8:30P	60
				14OCT99	TH	DT	10:30A	60
				16OCT99	SA	EM	8:00A	60
						LN	2:00A	60
				18OCT99	MO	LN	3:30A	60
				22OCT99	FR	DT	10:30A	60
				23OCT99	SA	EM	7:30A	60
				25OCT99	MO	LE	12:00M	60
				28OCT99	TH	LN	3:30A	60
				01NOV99	MO	DT	10:30A	60
				05NOV99	FR	DT	10:30A	60
				06NOV99	SA	LN	2:30A	60
				12NOV99	FR	LN	4:30A	60
				13NOV99	SA	LE	12:30A	60
3	CHICAGO	WCIU	IND	01JUN99	TU	EM	5:00A	30
				03JUN99	TH	LN	4:30A	30
				04JUN99	FR	EM	5:30A	30
				06JUN99	SU	EM	5:00A	30
				08JUN99	TU	LN	4:30A	30
				12JUN99	SA	DT	10:30A	30
				13JUN99	SU	EM	5:30A	30
				14JUN99	MO	LN	4:30A	30
				16JUN99	WE	LN	4:30A	30
				17JUN99	TH	LN	4:00A	30
				23JUN99	WE	EM	5:00A	30
				24JUN99	TH	EM	5:00A	30
				01JUL99	TH	EM	5:00A	30
				03JUL99	SA	EM	6:30A	30
				04JUL99	SU	EM	8:30A	30
						PT	8:30P	30
				05JUL99	MO	LN	4:30A	30
				10JUL99	SA	DT	10:00A	30
				11JUL99	SU	EM	5:00A	30
				12JUL99	MO	EM	5:00A	30
		LN	3:00A	30				
13JUL99	TU	EM	5:30A	30				
14JUL99	WE	EM	5:00A	30				
17JUL99	SA	EM	6:30A	30				

EM = 5AM-9AM
 LE = 10PM-1A

DT = 9AM-4PM
 LN = 1AM-5AM

EF = 4PM-8PM

PT = 8PM-10P

VIDEO RELEASE USAGE REPORT - HALF HOUR SUMMARY
MAY 10, 1999 - NOVEMBER 14, 1999

CLIENT ID : T101
VIDEO RELEASE: EPA SECOND HAND SMOKE
RELEASE TYPE : PSA

MKT RANK	DESIGNATED MARKET AREA	STA-TION	AFFL	DATE AIRED	DAY OF WK	DAY-PART	LOCAL 1/2HR AIRED	VERSION
3	CHICAGO	WCIU	IND	19JUL99	MO	LN	1:00A	30
				20JUL99	TU	EM	5:00A	30
				21JUL99	WE	EM	5:00A	30
				22JUL99	TH	EM	5:00A	30
				24JUL99	SA	EM	6:30A	30
				25JUL99	SU	EM	5:00A	30
				27JUL99	TU	LN	4:00A	30
				28JUL99	WE	LN	2:00A	30
				29JUL99	TH	LN	4:30A	30
				31JUL99	SA	EM	6:00A	30
				04AUG99	WE	EM	5:30A	30
				05AUG99	TH	EM	5:00A	30
				07AUG99	SA	EM	6:30A	30
				08AUG99	SU	EM	8:30A	30
						LN	4:30A	30
				09AUG99	MO	LN	1:30A	30
				12AUG99	TH	EM	5:00A	30
				14AUG99	SA	DT	10:30A	30
				16AUG99	MO	LN	2:00A	30
							4:30A	30
				19AUG99	TH	EM	5:30A	30
				22AUG99	SU	EM	5:30A	30
				23AUG99	MO	EM	5:30A	30
						LN	1:00A	30
				24AUG99	TU	LN	3:00A	30
							4:00A	30
				25AUG99	WE	EM	5:30A	30
				28AUG99	SA	EM	6:30A	30
				31AUG99	TU	EM	5:00A	30
				02SEP99	TH	EM	5:00A	30
				03SEP99	FR	EM	7:00A	30
				07SEP99	TU	LN	2:30A	30
				08SEP99	WE	LN	2:30A	30
				11SEP99	SA	EM	7:00A	30
				12SEP99	SU	LE	11:30P	30
							12:30A	30
						LN	4:00A	30
				13SEP99	MO	LN	1:30A	30
				14SEP99	TU	LN	3:00A	30
							4:00A	30
				02OCT99	SA	EM	7:00A	30

EM = 5AM-9AM
LE = 10PM-1A

DT = 9AM-4PM
LN = 1AM-5AM

EP = 4PM-8PM

PT = 8PM-10P

NIELSEN SIGMA SERVICE
 VIDEO RELEASE USAGE REPORT - HALF HOUR SUMMARY
 MAY 10, 1999 - NOVEMBER 14, 1999

CLIENT ID : T101
 VIDEO RELEASE: EPA SECOND HAND SMOKE
 RELEASE TYPE : PSA

MKT RANK	DESIGNATED MARKET AREA	STA- TION	AFFL	DATE AIRED	DAY OF WK	DAY- PART	LOCAL 1/2HR AIRED	VERSION
3	CHICAGO	WFLD	FOX	20AUG99	FR	DT	10:30A	30
						LN	4:00A	30
				22AUG99	SU	EM	6:00A	30
						LN	3:30A	30
				23AUG99	MO	LN	3:30A	30
				24AUG99	TU	DT	10:00A	30
						LN	2:30A	30
				28AUG99	SA	EM	5:00A	30
				30AUG99	MO	LN	2:30A	30
				31AUG99	TU	LE	11:30P	30
				01SEP99	WE	LN	4:00A	30
				02SEP99	TH	DT	10:30A	30
				03SEP99	FR	LN	3:30A	30
				05SEP99	SU	LN	3:00A	30
				06SEP99	MO	LN	3:30A	30
				07SEP99	TU	LN	3:00A	30
				08SEP99	WE	LN	3:30A	30
				10SEP99	FR	LN	4:00A	30
				12SEP99	SU	LN	2:30A	30
				13SEP99	MO	LN	4:00A	30
				14SEP99	TU	LN	4:30A	30
				03OCT99	SU	LN	2:30A	30
				04OCT99	MO	LN	3:30A	30
				05OCT99	TU	LN	4:30A	30
				08OCT99	FR	LN	4:30A	30
				09OCT99	SA	LN	2:00A	30
				15OCT99	FR	LN	2:30A	30
				16OCT99	SA	LN	3:00A	30
				19OCT99	TU	LN	4:00A	30
				20OCT99	WE	LN	4:00A	30
				22OCT99	FR	LN	3:30A	30
				25OCT99	MO	LN	3:00A	30
				29OCT99	FR	LN	3:30A	30
				04NOV99	TH	LN	3:30A	30
				07NOV99	SU	LN	2:00A	30
				08NOV99	MO	LN	4:30A	30
13NOV99	SA	EM	5:00A	30				
		LN	3:30A	30				
	WJYS	IND	16JUL99	FR	LE	10:00P	60	
			13SEP99	MO	PT	9:30P	60	
	WPWR	IND	11JUN99	FR	DT	10:00A	30	

EM = 5AM-9AM
 LE = 10PM-1A

DT = 9AM-4PM
 LN = 1AM-5AM

EF = 4PM-8PM

PT = 8PM-10P

NIELSEN SIGMA SERVICE
VIDEO RELEASE USAGE REPORT - HALF HOUR SUMMARY
MAY 10, 1999 - NOVEMBER 14, 1999

CLIENT ID : T101
 VIDEO RELEASE: EPA SECOND HAND SMOKE
 RELEASE TYPE : PSA

MKT RANK	DESIGNATED MARKET AREA	STA- TION	AFFL	DATE AIRED	DAY OF WK	DAY- PART	LOCAL 1/2HR AIRED	VERSION		
3	CHICAGO	WPWR	IND	11JUN99	FR	DT	10:00A	60		
				16JUN99	WE	LN	3:30A	30		
										60
				17JUN99	TH	EM	5:00A	30		
										60
				18JUN99	FR	EM	5:30A	30		
										60
				19JUN99	SA	EM	6:00A	30		
										60
				20JUN99	SU	EM	5:00A	30		
										60
						LE	12:30A	30		
										60
						LN	2:30A	30		
										60
				21JUN99	MO	EM	5:00A	30		
										60
							6:00A	30		
										60
						LN	3:30A	30		
										60
22JUN99	TU	EM	6:00A	30						
						60				
23JUN99	WE	EM	6:00A	30						
						60				
24JUN99	TH	LN	1:30A	60						
01JUL99	TH	PT	9:30P	30						
						60				
12JUL99	MO	EM	5:30A	30						
						60				
4	PHILADELPHIA	WGTW	IND	24MAY99	MO	DT	3:30P	30		
				25MAY99	TU	EF	4:00P	30		
							4:30P	30		
						EM	8:00A	30		
				26MAY99	WE	DT	3:00P	30		
				27MAY99	TH	DT	3:30P	30		
						EF	4:30P	30		
				28MAY99	FR	DT	3:00P	30		
						EF	4:30P	30		
						EM	8:00A	30		
30MAY99	SU	DT	11:00A	30						

EM = 5AM-9AM DT = 9AM-4PM EF = 4PM-8PM PT = 8PM-10P
 LE = 10PM-1A LN = 1AM-5AM

NIELSEN SIGMA SERVICE
VIDEO RELEASE USAGE REPORT - HALF HOUR SUMMARY
 MAY 10, 1999 - NOVEMBER 14, 1999

CLIENT ID : T101
 VIDEO RELEASE: EPA SECOND HAND SMOKE
 RELEASE TYPE : PSA

MKT RANK	DESIGNATED MARKET AREA	STA-TION	APFL	DATE AIRED	DAY OF WK	DAY- PART	LOCAL 1/2HR AIRED	VERSION			
80	PORTLAND-AUBURN	WCSH	NBC	07NOV99	SU	LN	1:00A	30			
		WPME	IND	07NOV99	SU	LE	10:00P	30			
81	FT. MYERS-NAPLES	WFTX	FOX	18OCT99	MO	EM	8:00A	60			
		WINK	CBS	23OCT99	SA	EM	5:00A	30			
				25OCT99	MO	LN	1:00A	30			
							2:00A	30			
							2:30A	30			
							3:00A	30			
							4:30A	30			
					26OCT99	TU	LN	2:30A	30		
							3:00A	30			
					29OCT99	FR	LN	1:30A	30		
					30OCT99	SA	EM	5:30A	30		
					31OCT99	SU	LN	1:30A	30		
					02NOV99	TU	LN	4:00A	30		
					05NOV99	FR	EM	5:00A	30		
82	CHAMPAIGN&SPRNGFLD-DECATU	WICD	NBC	05SEP99	SU	DT	1:30P	60			
				09SEP99	TH	DT	3:30P	60			
						LN	4:00A	60			
				11SEP99	SA	EF	6:30P	60			
				13SEP99	MO	DT	10:30A	60			
				16SEP99	TH	DT	10:30A	60			
				17SEP99	FR	DT	10:30A	60			
				22SEP99	WE	LN	4:00A	60			
				27SEP99	MO	DT	10:30A	60			
						LN	4:00A	60			
							28SEP99	TU	EM	8:30A	60
							29SEP99	WE	LN	4:00A	60
							04OCT99	MO	DT	10:30A	60
									EM	5:30A	60
									LN	1:30A	60
							05OCT99	TU	EF	4:00P	60
							06OCT99	WE	EF	4:30P	60
							15OCT99	FR	EM	5:30A	60
83	CHAMPAIGN&SPRNGFLD-DECATU	WICD	NBC	01NOV99	MO	LN	4:00A	60			
				07NOV99	SU	LE	12:30A	60			
				09NOV99	TU	EF	4:30P	60			
					LN	4:00A	60				

EM = 5AM-9AM DT = 9AM-4PM EF = 4PM-8PM FT = 8PM-10P
 LE = 10PM-1A LN = 1AM-5AM

NIELSEN SIGMA SERVICE
VIDEO RELEASE USAGE REPORT - HALF HOUR SUMMARY
MAY 10, 1999 - NOVEMBER 14, 1999

CLIENT ID : T101
 VIDEO RELEASE: EPA SECOND HAND SMOKE
 RELEASE TYPE : PSA

MKT RANK	DESIGNATED MARKET AREA	STA-TION	APFL	DATE AIRED	DAY OF WK	DAY- PART	LOCAL 1/2HR AIRED	VERSION	
83	CHAMPAIGN&SPRINGFLD-DECATUR FT. MYERS-NAPLES	WICD	NBC	12NOV99	FR	DT	10: 30A	60	
				04JUN99	FR	EM	5: 00A	60	
		WBBH	NBC	05JUN99	SA	LN	2: 00A	60	
								3: 30A	60
					08JUN99	TU	LN	4: 30A	60
					12JUN99	SA	LN	3: 30A	60
					15JUN99	TU	EM	5: 00A	60
					16JUN99	WE	EM	5: 00A	60
					17JUN99	TH	EM	5: 00A	60
					18JUN99	FR	EM	5: 00A	60
					24JUN99	TH	EM	5: 00A	60
					28JUN99	MO	EM	5: 00A	60
								4: 00A	60
					29JUN99	TU	LN	2: 00A	60
								4: 30A	60
					30JUN99	WE	LN	4: 30A	60
					01JUL99	TH	LN	4: 00A	60
					02JUL99	FR	EM	5: 30A	60
					03JUL99	SA	LN	3: 00A	60
					04JUL99	SU	LN	3: 00A	60
					05JUL99	MO	LN	4: 30A	60
					06JUL99	TU	LN	2: 30A	60
					08JUL99	TH	EM	5: 00A	60
					10JUL99	SA	EM	5: 30A	60
					12JUL99	MO	LN	4: 30A	60
					13JUL99	TU	LN	4: 30A	60
					15JUL99	TH	LN	4: 30A	60
					16JUL99	FR	EM	5: 00A	60
					17JUL99	SA	LN	2: 30A	60
					18JUL99	SU	DT	1: 30P	60
					20JUL99	TU	LN	4: 30A	60
			22JUL99	TH	EM	5: 00A	60		
			23JUL99	FR	EM	5: 30A	60		
			24JUL99	SA	LN	3: 00A	60		
			30JUL99	FR	EM	5: 00A	60		
			31JUL99	SA	EM	5: 00A	60		
						5: 30A	60		
			01AUG99	SU	EM	6: 30A	60		
			02AUG99	MO	LN	2: 00A	60		
			06AUG99	FR	EM	5: 00A	60		
			07AUG99	SA	DT	3: 30P	60		

EM = 5AM-9AM
 LE = 10PM-1A

DT = 9AM-4PM
 LN = 1AM-5AM

EF = 4PM-8PM

PT = 8PM-10P

CLIENT ID : T101
VIDEO RELEASE: EPA SECOND HAND SMOKE
RELEASE TYPE : PSA

MKT RANK	DESIGNATED MARKET AREA	STA-TION	AFFL	DATE AIRED	DAY OF WK	DAY-PART	LOCAL 1/2HR AIRED	VERSION
159	ABILENE-SWEETWATER	KTXS	ABC	02OCT99	SA	DT	12:30P	60
					LN	1:30A	60	
				03OCT99	SU	DT	1:30P	60
					EF	4:00P	60	
				04OCT99	MO	DT	11:30P	60
						LN	3:30P	60
				05OCT99	TU	DT	1:30A	60
						LE	9:30A	60
				06OCT99	WE	DT	10:30P	60
						EM	3:30P	60
				07OCT99	TH	DT	7:30A	60
						LN	9:30A	60
				08OCT99	FR	LE	2:30A	60
				09OCT99	SA	LE	10:30P	60
				10OCT99	SU	EM	12:30A	60
				12OCT99	TU	DT	6:30A	60
13OCT99	WE	DT	9:30A	60				
161	QUINCY-MANNIBAL-KEOKUK	KHQA	CBS	18OCT99	MO	LN	3:00P	60
					LN	2:00A	60	
				22OCT99	FR	LN	3:30A	60
					SA	LE	12:30A	60
				23OCT99	SA	LN	4:30A	60
						LN	4:00A	60
				26OCT99	TU	LN	4:00A	60
				30OCT99	SA	LN	3:30A	60
				31OCT99	SU	EM	6:30A	60
				03NOV99	WE	LN	2:00A	60
				04NOV99	TH	LE	12:30A	60
				05NOV99	FR	LE	12:30A	60
				06NOV99	SA	DT	12:00N	60
						LN	3:30A	60
				07NOV99	SU	LN	1:30A	60
				08NOV99	MO	LN	2:00A	60
10NOV99	WE	LN	1:00A	60				
12NOV99	FR	LN	1:30A	60				
13NOV99	SA	DT	10:00A	60				
SHERMAN-ADA	KXII	CBS	CBS	07JUN99	MO	LN	4:30A	30
				08JUN99	TU	LN	2:30A	30
				19JUN99	SA	LE	12:30A	30
				20JUN99	SU	LN	1:00A	30
				21JUN99	MO	LN	2:30A	30
				22JUN99	TU	LN	3:00A	30

EM = 5AM-9AM DT = 9AM-4PM EF = 4PM-8PM PT = 8PM-10P
LE = 10PM-1A LN = 1AM-5AM

NIELSEN SIGMA SERVICE
 VIDEO RELEASE USAGE REPORT - HALF HOUR SUMMARY
 MAY 10, 1999 - NOVEMBER 14, 1999

CLIENT ID : T101
 VIDEO RELEASE: EPA SECOND HAND SMOKE
 RELEASE TYPE : PSA

MKT RANK	DESIGNATED MARKET AREA	STA- TION	AFFL	DATE AIRED	DAY	LOCAL 1/2HR	VERSION	
					OF WK			DAY- PART
161	SHERMAN-ADA	KXII	CBS	24JUL99	SA	LN	2:00A	30
				25JUL99	SU	EM	5:00A	30
						LE	12:00M	30
						LN	1:00A	30
				26JUL99	MO	EM	5:30A	30
						LN	1:30A	30
							2:00A	30
							4:00A	30
							4:30A	30
				27JUL99	TU	LN	2:30A	30
				28JUL99	WE	LN	1:30A	30
							2:00A	30
							1:00A	60
				162	QUINCY-HANNIBAL-KEOKUK	KHQA	CBS	27MAY99
10JUN99	TH	LN	1:30A					60
20JUN99	SU	EM	6:30A					60
22JUN99	TU	LN	1:30A					60
04JUL99	SU	EF	5:00P					60
10JUL99	SA	LN	4:30A					60
25JUL99	SU	DT	1:00P					60
		EM	6:30A					60
31JUL99	SA	DT	10:00A					60
		LN	4:00A					60
04AUG99	WE	LE	12:30A					60
07AUG99	SA	DT	10:00A					60
		EM	8:00A					60
14AUG99	SA	DT	9:00A					60
			10:00A					60
			10:30A					60
27AUG99	FR	LN	2:00A					60
30AUG99	MO	LN	2:30A					60
02SEP99	TH	LN	1:30A					60
06SEP99	MO	LN	1:30A					60
17SEP99	FR	LN	2:00A	60				
18SEP99	SA	DT	10:00A	60				
24SEP99	FR	EM	5:00A	60				
01OCT99	FR	LN	3:00A	60				
04OCT99	MO	LN	2:00A	60				
16OCT99	SA	EM	5:30A	60				
		LN	2:00A	60				
			6:00A	60				
17OCT99	SU	EM	6:00A	60				
20OCT99	WE	DT	3:30P	60				
163	ABILENE-SWEETWATER	KTXS	ABC					

EM = 5AM-9AM DT = 9AM-4PM EF = 4PM-8PM PT = 8PM-10P
 LE = 10PM-1A LN = 1AM-5AM

NIELSEN SIGMA SERVICE
VIDEO RELEASE USAGE REPORT - HALF HOUR SUMMARY
MAY 10, 1999 - NOVEMBER 14, 1999

CLIENT-ID : T101
 VIDEO RELEASE: EPA SECOND HAND SMOKE
 RELEASE TYPE : PSA

MKT RANK	DESIGNATED MARKET AREA	STA-TION	AFFL	DATE AIRED	DAY OF WK	DAY-PART	LOCAL 1/2HR AIRED	VERSION		
3	CHICAGO	WCIU	IND	02OCT99	SA	LN	3:00A	30		
				03OCT99	SU	LE	12:30A	30		
						LN	1:00A	30		
							2:30A	30		
						06OCT99	WE	LN	3:30A	30
						07OCT99	TH	LN	3:00A	30
						08OCT99	FR	LN	4:30A	30
						09OCT99	SA	EM	8:00A	30
						12OCT99	TU	LN	2:30A	30
								PT	8:30P	30
						16OCT99	SA	EM	7:30A	30
						18OCT99	MO	LN	4:00A	30
						19OCT99	TU	LN	3:00A	30
						20OCT99	WE	LN	3:30A	30
									4:00A	30
						27OCT99	WE	EF	5:30P	30
						30OCT99	SA	DT	9:00A	30
						03NOV99	WE	LN	2:00A	30
						06NOV99	SA	EM	6:00A	30
						08NOV99	MO	LN	1:30A	30
									2:30A	30
				09NOV99	TU	LN	2:30A	30		
				12NOV99	FR	EM	5:30A	30		
				13NOV99	SA	DT	9:00A	30		
						LN	1:30A	30		
				WFLD	FOX	10JUN99	TH	LN	1:00A	30
						11JUN99	FR	EM	5:00A	30
								LE	11:30P	30
						12JUN99	SA	EM	5:00A	30
						14JUN99	MO	LN	3:30A	30
						15JUN99	TU	LN	3:00A	30
						16JUN99	WE	LN	3:30A	30
						17JUN99	TH	LN	2:30A	30
				18JUN99	FR	EM	5:00A	30		
						LN	3:00A	30		
				21JUN99	MO	LN	4:00A	30		
				22JUN99	TU	LN	4:00A	30		
				23JUN99	WE	LN	4:00A	30		
				24JUN99	TH	LN	4:00A	30		
				25JUN99	FR	EM	5:00A	30		
				27JUN99	SU	LN	3:30A	30		

EM = 5AM-9AM
LE = 10PM-1A

DT = 9AM-4PM
LN = 1AM-5AM

EF = 4PM-8PM

PT = 8PM-10P



Thursday March 2, 2000

Dear Chairman Kennard,

We are responding to the Notice of Inquiry on the public interest obligations of broadcasters.

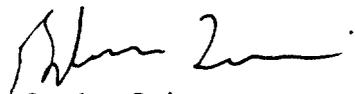
Our government has a tradition of giving away our publicly owned resources to a wealthy elite and asking for very little or nothing in return. Broadcasters are already licensed with exclusive use of the airwaves for free and have made billions selling those airwaves for advertising. Now the government has given broadcasters another \$70 billion worth of airwaves for digital use, while doing little or nothing to ensure that these broadcasters serve the public interest.

We spoke to the Director of Station Services and Community Affairs at WBBM – Channel 2 here in Chicago and asked him about the public affairs programming the station provides. “None,” he said. “We don’t have any.” He made it clear that public affairs programming is not part of WBBM's future plans. “We’re going in the opposite direction,” he explained. “With the FCC de-regulation things have changed.”

The public needs to be a part of the discussion concerning methods to keep these broadcasters accountable. Hearings should be held as a first step towards giving the public a chance to decided its own interests. Decisions of public interest should no longer be made in the back rooms of Congress or the boardrooms of big business.

A free market can create many wonderful opportunities and shows, but the government giving away \$70 billion dollars of public resources to the most powerful players does not stimulate a free market. The synergy between the public and private sector is at the root of our dynamic economy and this is evident in the broadcast industry. The multi-billion dollar infotainment industry began right here in Chicago with Siskel and Ebert, which was originally a public television program. Our own film, Hoop Dreams, got its initial funding from the Illinois Arts Council and the Corporation for Public Broadcasting which enabled it to go on to become a huge commercial and critical success.

Thank you for considering our position.


Gordon Quinn


Wm. Jason McInnes

Michigan

Tab D-3b

Anthony Abernathy
Michigan Institute for Nonviolence Education
3/2/00

Lynne W. Boyle
The Christian Communication Council of Metropolitan Detroit Churches
Detroit, MI
3/6/00

Richard Gamber, Jr.
Michigan Consumer Federation
Lansing, MI
3/22/00

Susan Hiltz Grover
Prevention Coalition of Southeast Michigan (PREVCO)
Southfield, MI
3/20/00

Peggy K. Goodwin
The Youth Connection
Detroit, MI
3/9/00

Benjamin A. Jones
National Council on Alcoholism and Drug Dependence
Detroit, MI
3/7/00

Gene and Mariann McCornack
Michigan
3/22/00

Dr. Frederic S. Pearson
Wayne State University
Detroit, MI
3/6/00

The Rev. Richard O. Singleton
The Metropolitan Christian Council: Detroit-Windsor
Detroit, MI
no date

People For Better TV

Review of Public Records

ANTHONY ABERNATHY

MICHIGAN INSTITUTE FOR NONVIOLENCE EDUCATION

Over the last three months, I've had the opportunity to visit two local TV stations.

Summary

I spent about two hours in reviewing the public files of both Channels 2 and 7 TV stations in the Metro Detroit viewing area.

Generally the Public Record is adjacent to the Public Relations Department

My major focus was on community concerns, community ascertainment reports, summaries of the stations monthly and quarterly programming reports (with particular emphasis on violence and balancing in programming.)

Ascertainment files are a composite of research done by the TV station public relation department where they actually go out onto the community and conduct surveys by use of questionnaires to determine what types of programming the viewing audience would be interested in seeing.

My first visit was to Channel 2 TV

The person responsible for the public files was a part time employee who wasn't which working the day I dropped in on the station.

Channel 2 Public files were in a small 6x10 room

I started by reviewing the monthly and quarterly programming reports, which covered a wide range of topics

Reviewing the community concerns for the years of 1997 through 1999, there were only two letters from the viewing public, expressing their concerns about violence or any matter in the Channel 2 TV files.

The files appeared to be well organized; written information was somewhat limited but with a need to schedule an appointment for resource person availability

My second visit was to Channel 7TV

Channel 7 appears to have a much larger budget for service staff

Channel 7 Public files were in a 10x24 room

I started with the files on community concerns, reviewing the files from 1996 through 1999.

I found an average of 18 written letters per year along with e-mail logs, ' attached to the correspondence were copies of the reply letters.

The letters in the public file address program content, offensive language and programming attitude not being reflective of the community served

The second area of review, were the Ascertainment files which were quite extensive

My research also included a review of the monthly and quarterly programming reports.

The programming reports that are forwarded to the FCC were consistent with the Ascertainment reports

I ended my visit by meeting with a Community Relations person, who informed me that the stations tries to balance any short-coming in their News reporting through having their reporters participate in noteworthy community activities.

Tools for Evaluations

Ascertainment files are reflective of the community interest, community concerns denote dislikes which should lead to the stations programming also keeping in mind *First and foremost TV Stations are profit driven*

The
Christian
Communication
Council
of Metropolitan
Detroit Churches

March 6, 2000

Chairman William Kennard
Federal Communications Commission
445 12th Street, SW
Washington, D.C. 20551

Dear Chairman Kennard:

I'm a member of **PEOPLE FOR BETTER TELEVISION -Detroit Metro Area**. My committee assignment was to monitor Childrens' Saturday programming on WXYZ-TV, Channel 7, Detroit - the ABC station. As Channel 7 is being fed by a Disney owned source, the Children's programs are from Disney. I watched WXYZ-TV from 7:00 a.m. - 12:00 Noon of Saturday, February 12, 2000. The programs were "gentle" and non-violent and identified for the appropriate age groups - with the exception of Sabrina at 10:30 a.m. and Bugs Bunny at 11:00 a.m. (which were not age identified). I therefore, applaud WXYZ-TV for their Saturday morning Childrens' line up.

However, I have two concerns focusing on the Sunday line up. On Sunday, only three stations air any Childrens' programs:
UPN Channel 50 - 9:00 a.m. and 10:00 a.m.
PBS Channel 56 -8:00, 8:30, 9:00 a.m.
CBS Channel 62 - 7:00 and 7:30 a.m.

Secondly, the number of commercials that are crammed into each Childrens' show! On Channel 7, the Saturday shows, beginning at 10:00 a.m., are almost back-to-back commercials.

Major broadcasters should not depend on the Cable stations to supply Childrens' programs in their market during the week. I understand that morning hours might not be the best, but 4 - 6 (after school hours) would be an excellent time slot for educational programs such as Field Trip and Jack Hanna.

Television plays an important and powerful role in the lives of our children and I am concerned about the about of sex and violence on television. Also, the number of commercials during childrens' programs.

Sincerely,



Lynne W. Boyle, Ed.D., Chair, Media Unit of the Council
1300 Mutual Building (28 West Adams) • Detroit, Michigan 48226

Phone: (313) 962-0340 • Fax: (313) 962-9044 • E-mail: councilweb@aol.com • Web Site: <http://users.aol.com/councilweb/index.htm>

Created in 1919, the Council now serves 2000 Catholic, Orthodox and Protestant congregations in SE Michigan and SW Ontario

The
**Christian
Communication
Council**
of Metropolitan
Detroit Churches

A SURVEY OF CHILDRENS' TELEVISION PROGRAMS ON CHANNEL 7, WXYZ

Saturday, Feb. 12, 2000

- 7:00 a.m. - FIELD TRIP. Program identified for children 7 and over. Prior to start of program, the following was announced: "Specifically to educate and inform children." Program was high tech, space travel involved. Cast featured human young girl and two "Alf" like puppets. Puppets are lost in a desert and end up touring an ice cream factory. At end of program many sources for more information about ice cream were given. Informative and non-violent.
- 7:30 a.m. - JACK HANNA. Program identified for all audiences. Should be aired when more children are up. It is a wonderful program taped at Busch Gardens. This edition featured many injured animals that are taken to the Busch Gardens Animal Hospital.
- 8:00 a.m. - PEP'R ANN. Program identified for children of all ages. Produced by Disney. Don't know why it is listed separately from ONE SATURDAY MORNING when it airs under that listing at 10:00 a.m. It is a cartoon feature. This show focused on how rumors start and what happens when we tell lies. There was one commercial which featured how to order a CD of 100 childrens' songs.
- 8:30 a.m. - ONE SATURDAY MORNING. Program listed for children of all ages. A teen-age girl and a talking elephant host the show from various venues. First segment featured a cartoon named DOUG. Segment had three commercials and one PSA. The commercials were appropriate for young audiences. I felt the topic of show was confusing for children, it dealt with confusion surrounding getting married.

DOUG was followed by RECESS. Everything since 8:00 has been under the Disney banner...and appears to be a network feed, rather than locally selected. RECESS is also a cartoon with Valentines' Day as its subject. The moral was "don't toy with peoples' feelings" - it will back fire on you. Five commercials were featured.

1300 Mutual Building (28 West Adams) • Detroit, Michigan 48226

**The
Christian
Communication
Council
of Metropolitan
Detroit Churches**

10:00 a.m. - PEP'R ANN. Still under the ONE SATURDAY MORNING heading. This segment was not a cartoon, rather, it dealt with ventriloquism and dummies that had bits of PEP'R ANN acting as host. The commercials were really heavy in this segment: Juicy Fruit Gum, Tang, Game Boy, Skittles, Tarzan. Each ran more than once - before, during and after PEP'R ANN.

SABRINA was inserted into the line-up at 10:30 a.m. and BUGS BUNNY at 11:00 a.m. Neither was rated. We went back to a show rated for children of all ages at 11:30 a.m.

11:30 a.m. - WINNIE. program rated for children of all ages. This show had the traditional cast of Pooh, Piglet, Robin, Tigger, etc. Fluffy Rabbit has invented a machine to scare crows out of his garden. Appeared to be non-violent even though the crows were really frightened! Many commercials: Barbie, the movie "Snow Day", Pillsbury, various videos, etc.

A message printed with voice over stated that educational shows and reports of such are available for the public at the station during regular business hours. I have never seen that before.

On Sundays, only three stations air any childrens' programs: Ch. 50, Ch. 56 and Ch. 62.

9:00 a.m. - DOUG, Channel 50
10:00 a.m. - PEP'R ANN, Channel 50

8:00 a.m. - DAEDAL DOORS, Channel 56
8:30 a.m. - WISH, Channel 56
9:00 a.m. - ARTHUR, Channel 56

7:00 a.m. - TALES, Channel 62
7:30 a.m. - MYTHIC, Channel 62

Reviewed by Lynne W. Boyle, ED.D



Michigan Consumer Federation

115 W. Allegan Street • Suite 240
Lansing, Michigan 48933
517/482-6262 • Fax 517/482-4142
E-mail mcf@acd.net

Richard D. Gamber Jr., Executive Director

March 22, 2000

The Honorable William E. Kennard
Chairman
Federal Communications Commission
445 12th Street, SW
Washington, DC 20554

Re: MM Docket No. 99-360

Dear Chairman Kennard:

The Michigan Consumer Federation, representing over 400,000 Michigan residents, wishes to express its support for the comments and recommendations of People for Better TV which will be filed in response to this docket. In addition, we will be filing separate comments to the Commission.

We applaud the Commission for issuing this Notice of Inquiry. The advent of digital broadcasting, we believe, presents many new opportunities. We fear, however, that without guidance from the Commission, these opportunities will be lost.

As a case in point, we point out the situation that exists in metropolitan Detroit with broadcast station WWJ, Channel 62. This is a CBS "owned and operated" affiliate. As such, we would expect it to be the leader in meeting public interest obligations – a standard to which other stations would aspire. Sadly, it isn't.

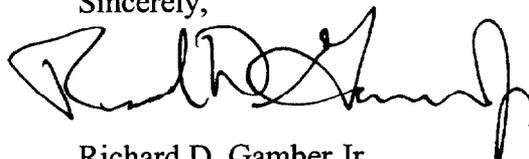
Here in Detroit, one of the largest media markets in the nation, the CBS owned and operated affiliate doesn't even offer a local news broadcast. CBS should be ashamed. And those who advocate "voluntary standards" should explain why this is acceptable. It may be grudgingly acceptable if it was a new independent station, but for the affiliate of CBS located in a large market to ignore local news is unfathomable.

If a CBS owned and operated affiliate can "get away with it" in Detroit, what stops other stations from following suit? If the pride and reputation of CBS is not sufficient motivation, what is? CBS has chosen to "lower the bar" and we urge the Commission to not only correct this egregious situation, but to insure that others don't use CBS as the excuse for further degradation of public interest obligations.

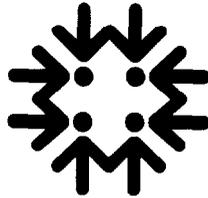
With the extensive costs associated with building digital broadcast studios, will this be the trend? We trust that the Commission will take a stand and ensure that the opportunities of digital broadcasting expand, rather than contract, the vital public interest obligations of broadcasters.

The recommendations of People for Better TV, in our view, represent the best hope for ensuring that the public airwaves are used to further the public interest. Let's work together to make the digital age one that enhances not only the quality of the television picture, but the minds and lives of all Americans.

Sincerely,

A handwritten signature in black ink, appearing to read "Richard D. Gamber Jr.", written in a cursive style.

Richard D. Gamber Jr.
Executive Director



PREVCO

March 20, 2000

Chairman William Kennard
Federal Communications Commission
445 12th Street, NW
Washington, DC 20554

Dear Chairman Kennard:

RE: FCC Notice Doc#99360

Enclosed for your review is some information about our organization, Prevention Coalition of Southeast Michigan. Our organization has worked with the local television stations in the Detroit media market for the past ten years. We collaborate with our local stations to air public service announcements that promote prevention messages about alcohol, tobacco and other drug abuse.

Over the past five years, we have seen a dramatic decrease in the actual amount of airtime that is devoted to PSA's. Previously, we were able to consecutively air :60 spots. Currently, we are confined to :30 or :15 spots. The seriousness of these community health issues has not decreased. Unfortunately, the available airtime has decreased by up to 50%.

It is our hope that with the introduction of broadcast digital television signals, this downward trend will be reversed. This will not happen without the input of the public and enforceable guidelines that will hold broadcasters responsible. At this pivotal crossroad, the television industry has a tremendous opportunity to have a positive impact on our communities. The current stream of gratuitous sex and violence, lack of local programming and advertising-packed children's programming has an increasingly negative impact our community.

On behalf of the children and concerned citizens of Southeast Michigan, we encourage you to make a change. As a member of People for Better TV-Southeast Michigan, we urge you hold local hearings, solicit input from the public and consider the PBTV guidelines as a place to start. Nothing less than the future of our children and the future of America is at stake.

Sincerely,

Susan Hiltz Grover
Executive Director

Prevention Coalition of
Southeast Michigan

P.O. Box 2970
Southfield, Michigan
48037-2970

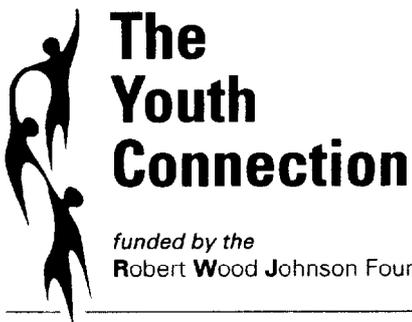
PREVCO NEW NUMBERS

PH 810.466.5030

FX 810.466.5031

EM theprevco@aol.com

Our mission is to promote
alcohol, tobacco and
other drug abuse
prevention messages
through media-based
strategies that support a
community-wide approach
to building a healthy
Southeast Michigan.



The Youth Connection

funded by the
Robert Wood Johnson Foundation

Suite1500, 333 West Fort St.
Detroit, Michigan 48226-3156

(313) 963-4990 • (313) 963-4668 (FAX)

lead agency
Greater Detroit Area Health Council, Inc.

March 9, 2000

Chairman William Kennard
Federal Communications Commission
445 12th Street, NW
Washington, D.C. 20554

RE: DOCKET # 99-360 FCC NOTICE OF INQUIRY

Dear Chairman Kennard:

With the advent of digital television, and the ever-increasing amount of violence, sex and substance abuse we are all exposed to on television, I am writing to ask for better quality educational programming especially targeting youth 10-17 years old. While our local network affiliates are doing a good job of bringing educational programs to children (5-10), there is a lack of quality, educational programs for older youth. The Youth Connection is working to create systemic change to prevent youth violence, substance abuse and early sexual activity -- a difficult task given the fact that young people are growing up viewing "instant gratification" on their television sets and computers and see very few consequences for violence, substance abuse or sexual activity in most television programs.

We are also interested in positive and accurate portrayal of youth in the media. Both local and national newscasts have brought the unspeakable --children killing children -- into our homes on far too many occasions recently. Once these horrific acts are committed, both local and national newscasts turn them into television shows with music beds, etc., and we watch the horrifying incident over and over again. We do not deny that problems exist, but we do ask for responsible programming. In the Detroit market, WDIV-NBC 4 and WXYZ-ABC 7 are doing especially good jobs with local, educational programming. But there is room for improvement on other network affiliates. I am especially concerned about the number one rated station targeting 12-17 year olds. While I know they do their share for the community, many of the cartoons and commercials I have viewed on Saturday mornings are very dark and violent. Imagine if kids are starting their days watching such negative, violent situations what is on their minds the rest of the day?

We appreciate you helping us keep the airwaves a public trust and not solely a commercial enterprise for the network corporate owners.

Sincerely,

Peggy K. Goodwin
Marketing Director

Board of Directors

Mr. James Fleming
Chair
 Hon. Edna Talbert-Bell
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 Ms. Na Yang

Benjamin A. Jones MSW, CSW
President/CEO

Rev. Dr. Lottie Jones-Hood
President Emeritus
 Mr. Stratford Hilliard
Board Member Emeritus

ADMINISTRATION

16647 Wyoming
 Detroit, Michigan 48221
 313.341.9891
 313.861.0413 Fax
 800.388.9891 Toll Free

FAMILY PLUS

(Fathers And Mothers In League with Youth)
 18954 James Couzens
 Detroit, Michigan 48235
 313.345.9400
 313.345.9017 Fax

VANTAGE POINT

16647 Wyoming
 Detroit, Michigan 48221
 313.342.3606
 313.861.0413 Fax

VANTAGE POINT EAST

@ Renaissance Hospital &
 Medical Centers East Clinic
 8300 Mack Avenue
 Detroit, Michigan 48214
 313.579.9133
 313.579.9411 Fax

March 7, 2000

Chairman William Kennard
 FCC
 445 12th St. N.W.
 Washington D.C. 20554

Re: Public Hearings ---- Docket # 99360

Dear Chairman Kennard:

The National Council on Alcoholism and Drug Dependence, Greater Detroit Area is pleased to add our voice to the chorus of community groups and concerned individuals who are calling for the FCC to hold public hearings.

Along with the plethora of issues and concerns presented by the coalition led by People for Better TV, this Council believes that it is imperative that we ask media outlets to list in their public file the date, time and type of public service announcements they air. To our knowledge if this information is kept it is not made available for public viewing. As you know public service announcements are essential to drug abuse prevention and treatment efforts.

Since 1947 the NCADD-GDA has provided advocacy, treatment, and prevention services to the greater Detroit Community. Our programs and projects provide hope and help to adolescents, adults, and families. Led by a volunteer board of directors who are civic and business leaders, politicians, and agency executives we recognize environmental change as an appropriate method to prevent and treat substance abuse problems.



Therefore, we strongly support your efforts to encourage the FCC to hold public hearings on the many issues related to the media and its method of operation. If you require any additional information from this organization please contact me during regular business hours at the number provided.

Sincerely,

A handwritten signature in cursive script that reads "Benjamin A. Jones". The signature is written in black ink and is positioned to the left of the typed name.

Benjamin A. Jones
President/CEO

March 22, 2000

People for Better TV
Attn: Mark Lloyd
818 18th Streer, NW, Suite 505
Washington, D.C. 20006

Dear Mark Lloyd,

I am responding to the Notice of Inquiry Docket Number 99-360 dealing with the public interest obligations of our local broadcasters. My husband is a retired clergyman and I am a retired public school teacher. We have monitored the 11 P.M. local news broadcasts of NBC Channel 4 and on March 6, 2000 we visited the Channel 4 studio and asked to see the public record files. The personnel were very polite and helpful to us.

The local news was primarily about fires, robbery, people killed and other disasters. Except for Lila's health news there was very little uplifting reports or news of personal interest to me. Specifically in 30 minutes the news was:

	night 1	night 2	
Local News	-----41%-----	-----19.3%-----	Not every second is accounted for but it is a close approximation.
Commercials	-----15.7%-----	-----29%-----	
Weather	-----14.3%-----	-----20.5%-----	
Health & Safety	-----0%-----	-----10.1%-----	
Sports	-----8%-----	-----6.1%-----	
National News	-----8%-----	-----6.6%-----	
Teasers	-----7%-----	-----1.6%-----	
Fluff News	-----1.6%-----	-----2.5%-----	
Chat & Filler	-----1.4%-----	-----2%-----	

I was especially interested in the children's television broadcasting. I looked at a first quarter 1998 and a last quarter 1999 report. I thought it was significant that all of the shows listed were targeted for an audience between 13 -16 years of age. Why not air something for elementary aged children? In the 1/3 to 3/8 1998 time period they aired a good show on Peer Pressure, but it was aired from 6:00 A.M. to 6:30 A.M. on Saturday morning. I doubt if many people in the targeted audience were awake at that hour to view it. I was pleased to see that they reported broadcasting numerous public service announcements designed for children that ran in rotation in all day parts.

I am glad that Channel 4 has continued to air our locally produced "Open Doors" program that the Christian Communication Council sponsors, but over the years we have been moved from a more favorable 8 A.M. Sunday morning time slot to 6.A.M.

I hope that a public hearing will help to develop some mutually agreeable guidelines to benefit our viewing audience, especially the younger children.

Sincerely,

Mariann McCormack, Supporter of People for Better TV

P.S. a copy of this letter was sent to Chairman Kennard, FCC

WAYNE STATE UNIVERSITY

COLLEGE OF URBAN, LABOR
& METROPOLITAN AFFAIRS

FREDERIC S. PEARSON, DIRECTOR
2320 FACULTY ADMINISTRATION BUILDING
DETROIT, MICHIGAN 48202
313-577-3453 OR 313-577-3468
FAX: 313-577-8269 EMAIL: AB3440@WAYNE.EDU



CENTER FOR PEACE AND CONFLICT STUDIES
DETROIT COUNCIL FOR WORLD AFFAIRS
WWW.WPCS.WAYNE.EDU

March 6, 2000

Chairman Kennard
Federal Communications Commission
Washington, DC

Dear Chairman Kennard:

I am joining members of my staff in responding to the Notice of Inquiry for Docket # 99-360 on broadcasters' public interest obligations.

We do a great deal of work on the management of conflict and violence particularly among youth, and are very concerned at the crucial role of broadcast media regarding this problem, as well as reflecting diversity issues in society. There are two particular aspects of this problem: (1) news coverage, and (2) entertainment programming related to the topic.

Local broadcasters particularly bear a significant responsibility, since they often indulge in sensational coverage of crime and violence as leads to their news coverage. Social violence should not be treated as a commercial attraction for ratings or sponsorship. In order to build greater sensitivity and professionalism, local broadcasters should be required to diversify their work forces, increase the time allocated to public affairs and educational programming, limit commercials, and consult with academic and professional groups for greater input and expertise regarding news coverage.

The content of entertainment programming is, of course, controversial, and one wants to respect creative freedom. However, again it is important for programs to reflect cultural awareness, avoid stereotypes, and treat violence and adult themes with care, sensitivity and in a fully explained context. Programs should be accurately labeled for content, and offered at appropriate time slots. Again it is important to employ staff, both on and off air, reflecting all aspects of diversity including disabilities, gender issues, and ethnicity, and management and staff should receive diversity training.

I urge your office to set clear guidelines in this respect as soon as possible. Thanks very much for your consideration.

Sincerely,

Dr. Frederic S. Pearson
Director

MCC:D-W

The Metropolitan Christian Council: Detroit-Windsor

The Rev. Richard O. Singleton, Executive Director

28 West Adams, 1300 Mutural Building

Detroit, Michigan 48226

Phone 313-962-0340, Fax 313-962-9044, E-mail Councilweb@aol.com

Chairman William Kennard
Federal Communications Commission
445 12th St.
Washington, D.C. 20554

Dear Chairman Kennard,

Attached to this letter is a letter of inquiry that was sent to local broadcast stations indicated in the lower left hand corner. None of these stations responded in any way to my request. One would think that at least I should have received a phone call. We are sincerely interested in advancing the quality of programming in our area and improving the values of community media.

Also, I should report to you that since deregulation of the stations by the FCC we have had our time reduced by the local TV and Radio stations from 3 1/2 program hours a week, to one half hour program on WDIV TV (Open Doors) at 6 am. on Sunday morning, and one half hour program on PBS, WTVS (Daedal Doors) at 8 am. on Sunday morning, and to 2 minutes on the radio on WWJ 950 which is sometimes preempted by some weekend news...usually sports or repeated weather and traffic bulletins every 10 minutes (we used to have an half hour program on the radio, and 5 minutes of news weekly at a prime time slot).

It is clear to us that the local radio and TV stations do not care in any way to serve the needs of the local community nor do they care to be used in any way as a public service. There is a need to again bring some regulation into the situation. Ground lost may never be regained.

Sincerely,



The Rev. Richard O. Singleton

CC.
Commissioner Gloria Tristani
Commissioner Susan Ness
Commissioner Michael Powell
Commissioner Harold Furchtgott-Roth
Congressman Conyers
Senator Carl Levin

MCC:DW

The Metropolitan Christian Council: Detroit-Windsor
(Formerly the Christian Communication Council
of Metropolitan Detroit Churches)

The Rev. Richard O. Singleton

1300 Mutual Building ~ 28 W. Adams ~ Detroit, MI 48226
Phone 313-962-0340 ~ Fax 313-962-9044 ~ Email councilweb@aol.com

February 07, 2000

Station Manager
Detroit -Windsor Broadcast Area
Detroit, Michigan

Dear Station Manager,

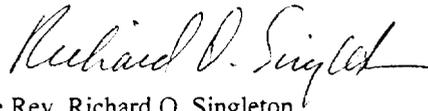
As you can see from the letterhead I am the Executive Director of the Metropolitan Christian Council: Detroit-Windsor. Our council represents over 50 denominations (Protestant, Catholic and Orthodox Churches, approximately 2000 churches) in the greater metropolitan area of Detroit and Windsor. We have church memberships in seven counties in Southeastern Michigan and Southwestern Ontario. We also produce two television programs and one radio program of our own.

We are very concerned about the way in which broadcast television has eroded its public service spectrum over the last ten years. We are also very concerned about the nature of children's programming, and the amount and kind of advertising associated with it. We are also concerned with the nature of news broadcasting, both its content and manner.

We have been working with a nationwide movement called People for Better TV, who share many of our concerns in these areas of public service and programming, especially for children. We all know that the values that television has represented have changed; sexual mores, excessive violence, and interpersonal relationships are reflected much differently now than in recent decades.

Would you therefore do something for us? Would you write us and give us a listing of your children's programs; the time they air, and a brief description of their content? Would you also give us a listing of the public service announcements that you have made in the last week (the week of February 7th would be fine)? We would greatly appreciate hearing from you as soon as possible.

We are sincerely yours in the public interest,



The Rev. Richard O. Singleton

WJIV TV
TV 26
WJBK FOX 2
WKBD - UPN 50
WXYZ Channel 7

4

SOUTHWEST

Texas

Tab D-4a

Carlos Calbillo
Talento Bilingue de Houston)
Houston, TX
2/25/00

David Donnelly, Ph.D.
University of Houston (School of Communication)
Houston, TX
2/28/00

Karen Kapusta-Pofahl
Denton, TX
1/30/00

Johnny N. Mata
League of United Latin American Citizens
Houston, TX
3/2/00

Arizona

Tab D-4b

Phyllis Rowe
Arizona Consumers Council
Phoenix, AZ
2/27/00

Julia Zozaya
Phoenix, AZ
3/1/00

From: Carlos Calbillo, Director of Video/Film
Program, Talento Bilingue de Houston

Date: 2/25/00

Re: Comments for the FCC

I believe that Mary Lampe of SWAMP here in Houston has sent you a report on our visits to 2 local stations, those being the ABC and FOX affiliates.

The licensees are mandated to serve the public interest by determining the needs, problems and issues in their local communities and then to produce programming to meet and address those local issues and needs.

The stations here in Houston as elsewhere have eliminated or drastically reduced their public affairs and community relations functions, during a period in the U.S. broadcast and cablecast industry of unprecedented growth of their revenues. In the 1970's, these areas within a station were almost exclusively where minorities and women were employed, and gave the stations a place to point to when cultural and ethnic diversity in employment began to command importance in their local communities. Currently, almost all of the stations in Houston with news operations claim to meet their FCC requirements through programming offered by the regular news department operations. The news operation, being the foremost revenue generating system within a station, does not have meeting the needs or addressing the problems of a community, as it's foremost or even significant interest. African American and Latino communities specifically are underserved by this process. A station's news organization, given the cut-throat nature of the ratings wars which lead to increasing sensationalistic local community coverage, are simply unable to deal in a rational or realistic way with local community problems and needs. There are relatively few stories on the positive aspects of a community, individual, or organization that is working to make a difference in the direction of that community. This type of coverage isn't "sexy", in the newsroom vernacular, "drivebys" and convenience store holdups are. My argument is verified by the public file, where one can see that the station will state that they have addressed the issue of "crime" by a 6pm sensationalistic news segment on carjacking, or that a 10pm news blurb on back alley abortions satisfies their covering BOTH a "unwed mothers" and a "crime", and "youth" requirement.

I further disagree with the process by which the stations "ascertain" the problems of their local communities. The stations organize quarterly "ascertainment" meetings at which the public affairs officer at a particular station invites a group of individuals who are supposed to represent their communities. In Houston, this "cattle call" results in each individuals given fifteen minutes before this audience of public affairs officers and the person is asked to state what the issues are for their community. There is no effort to document or to catalog the responses. This raw data is sometimes place in the station's public file, sometimes not. The station and/or their legal representative will make this call.

People For Better TV
Visits to Stations by Carlos Calbillo and Mary Lampe
January 26, 2000

KTRK-TV, Channel 13, ABC

(Arrived at 10:10 a.m.; admitted 10:18 a.m.; assisted by Terry Carter)

General Observations:

Files neatly organized, readily accessible, friendly/helpful staff

Files Reviewed:

1. "Ascertainments," January -December 1999: Note: records of interviews with public by staff regarding community concerns, forums held monthly ~~(?)~~, public attends by invitation

A.) 1st quarter (13 interviews): issues—welfare; race relations + crime; summer jobs; child abuse; welfare to work; low income housing; lawsuit abuse; families and violence; helmet laws; pollution and erosion; infant mortality; juvenile crime;
B.) 2nd quarter (1 interview): issue-low income families

C.) 3rd quarter (17 interviews): issues—lack of child care; lack of human interest stories in media; job training; special needs of hearing impaired; drugs; hate crimes + gays; violence in schools; arts for children in schools; health care and insurance for elderly; immigrant families; gangs; homelessness; child fatality; environment

D.) 4th quarter (7 interviews): issues— downtown parking and traffic; public transportation; low secondary school standards; abandoned children and teen mothers; pollution; hunger-shelters; child poverty; affordable housing; public school; economic issues and empowerment for girls

2. "Issues and Problems Report, 10/1/99-12/31/99" (filed 1/10/2000)

"October 1 through December 31, 1999, KTRK-TV broadcast 3 ½ hours weekly local public affairs programs."

A.) "ABC/13 Community Closeup (Saturdays, wkdays, 12-1:00 p.m.):" Includes several programs (rotated during time slot): "Issue Forums" (political concerns of community); "County Line" (various interests); "Visions" (Asian interests); "Viva Houston" (Hispanic); "Crossroads" (African American); and Debra Duncan show, Monday thru Friday.

"...[the] following issues that were important to the community in the 4th quarter of 1999"

1. Hunger (4 shows, 3 for 45 minutes total and a Food Drive, 3 hours long)
2. Nov. Election (4 shows, 1:42)
3. Y2K (1 hour, 2 programs)

4. Breast Cancer awareness (1 show, 30 minutes)
 5. Children First (1 show, 30 min)
 6. Boot camps (1 show, 30 min)
- Then "KTRK-TV News programs" (listed)

General Observations: It would have been difficult to determine what all programs were developed relating to the Ascertainment issues; or, how programs listed related to specific Houston community. Overall, it doesn't seem like much community programming for four month period. Query: does a food drive really cover the issues of hunger;

3. **Petition to Deny**, dated 1993, by Houston resident Gloria Trevino Turner, "concerning injustice to minorities" (petition to deny was denied)

4. **Files of "Issues and Problems of Concern,"** a master list, not in order of importance and based on compilation of phone calls and ascertainment (last update 1993)

5. **"Children's Programming Report, 10/1/99-12/31/99, filed 1/10/00)**

"FCC 398 Submission Results"

Disney's Pepper Ann; Disney's Doug; Sabrina, the Animated Series; Bugs Bunny; Winnie the Pooh; Squigglevision; ABC Kids Matinee

Number of "Network Commercial Minutes" : **11 minutes** on Saturdays, between 6:30 a.m. and 8:00 a.m. (4:30 for local commercials). Format allows for 3- 1:34 station breaks, of which 1:30 only for each may be used for local commercial matter "Format allows 2-1:04 station breaks, of which 1:00 only for each may be used for local commercial matter" (Note: # commercials at other times were not indicated, or at least, apparent)

6. **Viewer Letters** (Note: all actual communications in files)

7. **"Annual Employment Report"** (Note: 1997 in files, '98 missing, '99 not available until March 2000—a copy of 98 will be sent to Carlos Calbillo)

KRIV-TV, Channel 26, FOX

(Arrived at 2:10, got in at 2:30 p.m., Assisted by Lisa Whitlock and Cindy?)

General Observations: Files located in a locked room in locked cabinets; accompanied at all times by staff; staff was helpful; Lisa Whitlock said she was a department of one, she's in charge of community programs including doing the ascertainment and some production.

Files:

1. Ascertainments, 4th quarter, 1999

Observations: Organized differently than previous station, categories such as "Family", "Local Government", "Transportation/Traffic", "Prejudice/Racism" etc. Each section had a page for each program or piece that related to that category. National pieces were included with local and mixed together. Few seemed to actually be local productions. Noticed that there were often duplications of programming listed in different categories, eg, piece on "2000 Countdown" was included in categories "Local Government" and in "Family"; another piece on "Texas Veterans Scam" listed as "Local Govt" and "Family"; "High School Kid Shot" story repeated in "Prejudice/Racism" and "Family", "Survivors of School Violence" program repeated in "Random Violence" and in "Family" section (more examples available)

Actual ascertainment forms were not available.

2. Issues/Problems File

Observation: contained daily "FCC Content Log Report" e.g., Friday, 12/31/99 contained 3:31:00 of commercials: 29:40 of PSA's; and 40:30 of promotional materials.

Observation: In 4th Quarter 1999 10/8/99 to 12/18/99, 17 PSAs were aired (not local)

3. Employment Log 1999

U N I V E R S I T Y o f H O U S T O N

School of Communication

Houston, TX 77204-3786 Fax: 713/243-2676
713/743-3002



February 28, 2000

Commissioner William Kennard
Federal Communications Commission
445 12th Street, NW
Washington, D.C. 20554

Commissioner Kennard:

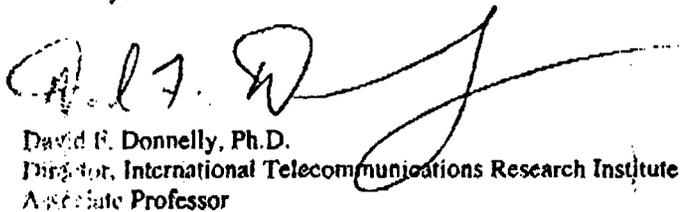
I would like to commend the Federal Communications Commission for initiating a Notice of Inquiry into the rules and obligations that would accompany the transition to digital television and strongly urge you to take the next step by opening a Notice of Inquiry and Proposed Rulemaking. The transition affecting the medium of television that has already been set in motion by regulators and the private sector should improve more than just the technology of television. The motivations driving such a transition should go well beyond creating an environment which increases the potential profit margins of private media conglomerates. This is an unprecedented opportunity to improve the overall quality of television.

Regulators are faced with the chance to establish new ground rules for the emerging media environment. The FCC can now clarify the ambiguities in the phrase "the public interest, convenience and necessity" which have made the definition and enforcement of public interest obligations difficult. The agency can reassert itself as an empowered public trustee. The Commission needs to work with private industry, but not cower to the whims and desires of the private sector, nor buy into the rhetoric that the marketplace can solve all problems. A previous FCC Commissioner during the Reagan administration allegedly argued that a television is nothing more than a toaster with pictures. This sentiment is not only misleading, but potentially dangerous. Both are electrical appliances, but the differences far outweigh the similarities. The negative or positive social impact of a toaster is inconsequential, the impact of television is immeasurable.

In light of the recent growth of media conglomerates and the inherent power reflected in the sheer size of such entities, the needs of the American public have to be balanced against the insatiable desire for profits. There are two areas in particular that cannot be left to the free market regulation. While other nations have enacted strong protections guarding their children against commercialism, the US has enacted comparatively minimal safeguards. I encourage the FCC to revisit the mandates of the Children's Television Act of 1990 and to further define and bolster the hourly educational programming requirements in light of the increased spectrum given to broadcasters. With the globalization of media ownership, local programming may become an increasingly lower priority. I am old enough to remember the days when local stations provided public affairs programming, and I have witnessed a steady decline over the past two decades. Today, most stations provide local news, which is being watered down by insipid stories and blatant program promotions, and not much else in this area. As many cities have only one major daily newspaper, local station coverage of events and important community issues is even more critical. Unfortunately, such material may not generate high ratings, and as a result, it may go uncovered leaving the public uninformed. Broadcasters have an obligation to the public which must not take the back seat to their obligations to their investors and the stakeholders. The only way to truly ensure that broadcasters meet such a responsibility is to enforce such an obligation through rules. Television viewers are not only consumers, but they are also citizens. To ensure that our democracy remains strong and vital, we must provide the information infrastructure and free flow of information needed to cultivate a well informed populace.

As a general rule, like most Americans I am opposed to overly restrictive governmental regulations and I am against the unnecessary intrusion of government agencies in the private sectors. The media are one area where the public requires the guidance and the protections that are established in enforceable rules set by government agencies. The transition to digital television is exciting, and the FCC has the opportunity to protect the American public by helping to implement rules which would serve to minimize the negative impact of the medium of television while concurrently stimulating the prosocial impact of one of the most powerful cultural forces of our day.

Sincerely,



David R. Donnelly, Ph.D.
Director, International Telecommunications Research Institute
Associate Professor

From: kkapusta@hotmail.com

Subject: People for Better TV
Date: 30 Jan 2000

Karen Kapusta-Pofahl
500 Audra Lane Apt. C
Denton, TX 76201-6495

Chairman William E. Kennard
Federal Communications Commission
445 12th Street, SW
Washington, D.C. 20554

Dear Chairman Kennard:

I believe the airwaves are a public trust and I want to know that the public has been consulted before those airwaves are given away. No one has asked me how TV can better serve me or my family.

I understand that television broadcasters in major cities across the United States will begin using additional public airwaves to broadcast digital television signals on May 1, 1999. I am sure that digital broadcasting will offer many opportunities, but I want to know what responsibilities broadcasters will perform in exchange for the free use of the airwaves.

Please begin a proceeding immediately to consider what people like me can expect in return for giving away such valuable public resources to the broadcasters.

Television plays an important and powerful role in my community, and like many Americans I am concerned about the amount of sex and violence on television, the number of commercials during children's programming, the lack of local programming addressing the needs of my community, and the lack of programming accessible to the disabled.

Sincerely,

Karen Kapusta-Pofahl

CC:

Representative William M. (Mac) Thornberry
Senator Kay Bailey Hutchison
Senator Phil Gramm



**League of United Latin American Citizens
LULAC District XVIII**

3522 Polk Street, Houston, Texas 77003 Phone (713) 225-8522

March 2, 2000

Mr. Marco Grimaldo
People for Better TV
818 18th St. NW Suite 505
Washington D.C. 20006

Dear Mr. Grimaldo;

In 1983 the League of United Latin American Citizens National Office (LULAC) had an audit conducted of network television by Public Advocates, Inc. According to the audit Hispanics had virtually been excluded from the major networks. It is very evidence today that Hispanics are still underrepresented in the major networks.

In the Houston area there appears that a decline on public service programs by the television stations has occurred. KHOU-TV Channel 11 (CBS) had a weekly Hispanic program entitled *Ola Amigos* from about 1971 to 1985. Hispanics protected and were outraged that the station was canceling the Program. Belo Corporation officials met on or about 1992 with community leaders to inform the community about a new program called *First Sunday*. *First Sunday* included the total minority community, which resulted with a once a month minority program. *First Sunday* aired until about 1996. No other public service program exists since then other than a Sat. morning news program.

The program something carries small segments of community activities. There was a Community Affairs Department with two people up till March 1999; One person remained to carry out the Community Affairs function. On or about June of 1999, Community Affairs was merged under Marketing and Promotions thereby deleting community affairs.

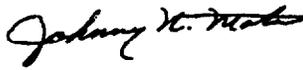
KTRH TV Channel 13 (ABC)

On or about September 1999 KTRH-TV Channel 13 underwent Public Service program reorganization and began *Community Close Up*, which consists of *Viva Houston*, *Cross roads*, *Vision-Asian*, *County Line* and *Issues*. *Viva Houston* was a Hispanic Thirty minute once a week program as was *Cross Road* an African-American program. The station continues to maintain a three person Community Relations Office, but programming of *Cross Roads* and *Viva Houston* programs has been reduced drastically.

KPRC-TV Channel 2 (NBC) also had a Hispanic Public Service Program several years back that no longer is on the air. We have not touched on the other stations due to the availability of time.

Hispanics and other persons of color and groups in Houston and surrounding areas as well as on the national level would greatly benefit by the Federal Communications Commission continued work in assuring that the television and radio industry through their programming be more responsive to our communities. LULAC will continue to monitor television programs with the help of organizations such as People for Better TV and others to ensure progress in this area, thank you for work assistance.

Sincerely,

A handwritten signature in cursive script that reads "Johnny N. Mata".

Johnny N. Mata
Media Relations and Communications

Arizona Consumers Council

Board of Directors

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Phyllis Rowe

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Marsha Weeks
Lee Wolfson

February 27, 2000

People for Better TV

The Arizona Consumers Council receives consumer complaints and also questions from consumers in our state. A number of calls are related to Television programming.

Consumers believe that there are too many commercials during many programs. Sometimes three in succession and they are repeating commercials that are shorter again during a program. In some cases there is almost more commercial time than program time. The television channels are being given to broadcasters without any restrictions as to commercials.

There are not enough local programs dealing with important local issues. Local elections had very little public programming on local transportation or initiative issues or information about what is happening in our state legislature. There is a city channel, but seldom is any of this -often important information-broadcast on other channels. Many people do not constantly watch the city channel and miss this information.

As newspaper readership is diminishing, television is relied upon, more and more, for all of the information that people receive on local issues and these are often not addressed.

We believe that there needs to be hearings on oversight and rules that will benefit the public.

Sincerely,



Phyllis Rowe
President

Address:

P. O. Box 1288
Phoenix, AZ 85001
602-265-9625 voice
602-263-7465 fax
e-mail: prowe@primenet.com
Tucson: 520-327-0241 voice

March 1, 2000

To whom it may concern:

I am writing to express my views concerning the responsibilities of digital broadcasters. I am concerned that television broadcasters do not serve everyone equally. I live in the Phoenix area. I am blind and I am hearing impaired. Currently, the only station which I know of that is offering video descriptive services is channel eight, the local public broadcast station. This means that I cannot enjoy the local news, weather, or any of the community or public affairs programming which are offered by the other stations.

New technologies offer many promises, but may also pose some serious problems. As an example, I should say that I am looking forward to my birthday gift this year which will be an attachment to my television which will allow me to receive the video descriptive signals from channel eight. This device is expensive and for many who are blind, the added cost would be prohibitive. I have to wonder if given changes in technology, I will have to buy another device in the future. I have heard that we will need to buy new television sets to receive digital signals and I would like to be sure that you fully consider how this will impact persons with disabilities. I want to be sure that the technology, including both software and hardware will be standardized and accessible to all.

I am very involved in my community and I value the role that television plays in educating the public. I am a member of the League of United Latin American Citizens (LULAC), and I formerly served as LULAC National Vice-president for Women. I am concerned that the broadcasters in my area do not fairly represent Latinos or women on television. I believe that broadcasters should do more to reach out to diverse populations as a way to better serve the communities which they are licensed to serve. I think that this would help in getting out the real story about the good things which happen in our neighborhoods. As it is, I think broadcasters pay too much attention to car accidents, crimes and disasters and too little attention to the good work which goes on day to day. I am also concerned that broadcasters reach Indian reservations and other rural communities which would otherwise be left out of public debate and community information.

I previously owned a radio station and we made special efforts to reach out to diverse communities. I do not see television stations making an effort to provide real community programming responsive to the day-to-day realities in our neighborhoods.

I understand that Congress gave away the use of the public airwaves to broadcasters for the transmission of digital signals. I believe that broadcasters stand to make a great deal of money as a result of this new capacity and I would like to know what I as a citizen can expect in exchange for this give away.

Julia Zozaya
4548 West Osborn
Phoenix, AZ 85031

5

CALIFORNIA

Los Angeles

Tab D-5a

Xandra Kayden
League of Woman Voters - Los Angeles
Los Angeles, CA
3/6/00

Bong Hwan Kim
MultiCultural Collaborative
Los Angeles, CA
3/7/00

Alicia Maldonado
Mexican American Legal Defense and Educational Fund
Los Angeles, CA
3/6/00

Cher McIntyre
Consumer Action
Los Angeles, CA
2/25/00

Peter T. Morgan
Los Angeles, CA
3/9/00

Laurie Trotta
Mediascope
Studio City, CA
3/8/00

THE LEAGUE
OF WOMEN VOTERS
OF LOS ANGELES



March 6, 2000

The Honorable William Kennard, Chairman
Federal Communications Commission
445 12th Street, S.W.
Washington, D.C. 20554

Dear Mr. Kennard:

I am writing on behalf of the League of Women Voters of Los Angeles in response to your Notice of Inquiry regarding public interest obligations of TV broadcast licensees. We have been concerned about local television coverage for some time and undertook a study last fall -- following a rather dismal experience of trying to get local stations to cover the charter reform campaign last spring. I am enclosing a copy of our effort.

I would like to take this opportunity, however, to explain why I think local television coverage of local public affairs is so important. I am a political scientist who teaches urban politics at UCLA. Political science these days is more engaged in what is called "rational choice theory" than politics and government, and, therefore, such courses as mine are rarely taught. Since they aren't taught at the college level, civics is not taught in the schools. My students, for instance, have never had a course, or even a segment of a course, on local government. If you add to the lack of education, the fact that so many of our residents are immigrants from countries where participation in local government is tantamount to being a criminal -- and that the political party machines that welcomed immigrants into the political system in the last round of immigration at the turn of the last century no longer exist at the local level -- it is easy to see why there is so little interest in public affairs at every level of government. There is a correlation between knowledge and engagement, and another between engagement and confidence in the political system.

If 70 percent of Americans get their news from television -- and local television is devoted to personal tragedies, natural disasters and consumer news -- it is not difficult to explain the decline in affiliation with our political system. Local television news is not the cause, but requiring some measure of public service in return for a license is not asking very much for the use of public air waves. And if no local station can be expected to change on its own, the answer must come from re-regulation of the licenses you issue.

Other Leagues of Women Voters around the country have expressed interest in our project and I expect that we will watch this issue with great interest, given our mission of fostering an educated electorate. Thank you for your willingness to tackle this very serious problem.

Sincerely,

A handwritten signature in cursive script that reads "Xandra Kayden". The signature is written in black ink and includes a horizontal line extending to the right from the end of the name.

Xandra Kayden
President

Encl.

THE LEAGUE
OF WOMEN VOTERS
OF LOS ANGELES



MEDIA WATCH

What We Learned

Forty-five members of the Los Angeles League of Women Voters watched local television news during the week of October 26 and logged the stories they aired and the time allocated to them. As a volunteer effort, it was not uniform. And it certainly was not easy. We did not cover every news show and every reviewer did not record stories the same way. We did, however, learn enough to draw some conclusions, although it would be an exaggeration to say they were especially startling conclusions.

The big stories of the week were the developing school board crisis locally -- which also became a national story as the week progressed; and the downing at the end of the week of Egyptian Air Flight 990. There were other activities going on in the world -- including the closing days of elections in many communities around the State and the country. The Governor was traveling abroad. And the presidential contenders in both the Democratic and Republican parties held their first nationally-televised encounters in the town halls in New Hampshire. The World Series was concluded, and golfer Payne Stewart was killed in a strange plane crash that occupied the hearts and minds of thousands as the clearly-unpiloted plane wended its way across the country before running out of gas.

The news shows watched included the following:

CBS /Channel 2 (5:00, 6:00, 11:00);
NBC/Channel 4 (5:00 and 11:00);
KTLA/Channel 5 (10:00);
ABC/Channel 7 (5:00 and 11:00);
KCAL/Channel 9 (2:00);
KCOP/Channel 13 (10:00).

We did not cover cable news, news magazine, or Public Television.

What We Saw in Los Angeles

Stories fell into the following categories:

- * car chases -- there weren't many by our standards
- * murder/crime -- the majority of the stories were local, but the network affiliates, particularly were able to borrow mayhem from elsewhere and fill in "interesting stories" from elsewhere about 20 to 25 percent of the time in this category.

- * disaster -- a popular subject, helped along by the air plane crashes, but some channels spent more time on disasters than any other category.
- * business -- although this is a growing topic elsewhere on television (particularly for specialized cable channels such as CNBC and CNNfn, which is trying to catch up), it was not a high priority for local news
- * human interest -- ranking right up there with disaster and sports
- * entertainment -- this included movie and book reviews, generally not given as much time as one might have thought given that Los Angeles is the center of the entertainment industry.
- * traffic -- relatively low in priority, sometimes not covered at all.
- * health -- received relatively little coverage
- * science -- did better than health
- * weather -- an important part of local news, although not in the top 3 for the most part.
- * international news -- more likely to be carried by the major network affiliates than the local independents

About half of all time on all channels was devoted to ads and promotions for stories coming later in the news, and other shows on the station. Whether this is more than a television drama, or a game show we don't know at this point, but it is clear that local news lends itself to frequent interruptions because of the length of the stories: generally ranging between 30 seconds to 1 1/2 or 2 1/2 minutes. Studies of the media have shown a marked decline in the time allotted each story over the years.

Preliminary Observations

Order of priority according to time allotted

CBS: disaster, human interest, sports, murder/crime, weather, science, health, local government & politics, entertainment, national government & politics, business, car chases, state politics

NBC: human interest, murder/crime, weather, sports, disaster, health, international/business (tie), national government/politics entertainment, local government/politics, science, traffic

KTLA: crime/murder/car, human interest, disaster, national government & politics, entertainment/international (tied), health, sports, weather, local government & politics, science, business

ABC: murder/crime, human interest, weather, local government & politics, disaster, national government & politics, entertainment, health, science, business

KCAL: murder/crime, local government & politics, human interest, entertainment, health, weather, disaster, sports, national government & politics/business (tied), science

KCOP: sports, weather, disaster, human interest, murder/crime, local government & politics, business, science, health, car chase, entertainment, national government & politics

These ranking reflect the minutes our loggers assigned to stories, but they do not suggest the magnitude of the differences between them, which can be significant. We haven't given the numbers themselves because the hours watched varied. So, for instance, while KCOP devoted 36 minutes to sports, and 4 minutes to entertainment, we are reflecting a one hour news show. CBS, for which we have 2 and 1/2 hours logged, devoted 74 minutes to disaster, and 5 minutes to car chases over the course of the week.

Looking at the numbers, however, suggested some variations between stations -- other than that shown by the ranking of story minutes in the section above.

CBS: Covered crime and human interest about equally, and also gave equal time to sports and the weather. Disasters topped the list because of the particular nature of the news that week of the Egyptian Air crash. But the LAUSD notwithstanding, they gave very little time to local government and politics.

NBC: Devoted about equal time to crime, disaster, and human interest, but were heavier on sports at 11:00 and on weather at 5:00.

KTLA: Devoted more time to government and politics than any other channel with approximately three times as much national as local news coverage.

ABC: Crime and disaster got the most coverage, with a lot also devoted to weather and sports.

KCAL: Similar to CBS.

KCOP: Much more even coverage between topics, with a lot of ads.



MultiCultural Collaborative

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Los Angeles CA
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BOARD OF DIRECTORS:

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Central American Resource Cntr

Noemi Soto

Paul Vandeventer

Community Partners

Arturo Vargas

NALEO

Ron Wakabayashi

LA Cnty Human Relations Cmssn

Luke Williams

CHIRLA

March 7, 2000

Honorable Chairman William Kennard
Federal Communications Commission
Washington, DC

Dear Mr. Kennard:

The organization that I represent, the MultiCultural Collaborative was created in the aftermath of the civil unrest of 1992 in Los Angeles. Founded by a multi-ethnic cross-section of community-based service and advocacy organizations, MCC serves the African American, Asian Pacific Islander and Latino communities of the greater Los Angeles area. Seeking long-term solutions to racial and ethnic conflict, MCC's mission is to identify, support and evaluate creative models of inter-group collaboration that advance the causes of justice, equity and community in Los Angeles.

Television has the tremendous power to help shape images and perceptions of who we are as a people and as a society. It also has profound implications for race relations in Los Angeles and the rest of the nation. The lack of diversity among personnel both in front of and behind the camera has attracted the attention of national advocacy groups such as the NAACP, which has called upon the broadcast industry to reflect the diverse demographics of our country.

Recent studies have shown that the broadcast industry is further segregating our society by developing shows targeted at specific racial audiences. For example, African American actors are over-represented in shows that cater directly to the African American viewing audience; mainstream productions with mostly white casts serve mostly white viewers. These types of niche-market development trends run contrary to building a truly diverse and multicultural society. Television must not only look like America but also represent its highest ideals and motivate us to reach our highest aspirations as a people.

Los Angeles is the media capital of the world, and it has bequeathed the world the best and worst that media can offer society. On the negative side, local broadcast news, rather than provide the service of public information, often denies the viewing public the kind of information that is critical to a sustained dialogue on issues of true social import. For example, one recent evening, all of L.A.'s local stations featured at the top of their broadcasts stories of celebrity intrigue (Sharon Stone's maid arrested on charges of burglary; Halle Berry's hit-and-run accident scandal). This, at a time when working class ethnic communities in Los Angeles are reeling from shocking revelations of systemic abuse perpetrated by the Los Angeles Police Department. A majority of the local news, which can qualify as public affairs programming, consists of crime and disaster coverage. In Los Angeles the amount of coverage on crime is disproportionate to the actual crime rate. Live coverage of

*organizations listed for
identification purposes only

car chases as well as homicides are the broadcasters favorite mode of reporting what happens on the city streets of Los Angeles. These stories are centered in the poor neighborhoods of color across Los Angeles, making it no surprise that most Angelinos, as well as Americans, wrongly believe that Blacks and Latinos are responsible for committing the majority of crime. As MCC deals with issues of race relations in one of the most diverse cities in the country, I feel that it is critical to address local news coverage as a means to which all communities in Los Angeles come to understand themselves and one another. If an informed public is essential to democracy, our broadcast industry is among our most anti-democratic institutions.

As MCC deals with issues of race relations in one of the most diverse cities in the country, it is clear that the public interest is not being served by local news alone. We recommend that digital broadcasters be required to consult with a broad range of local leaders about the important issues facing our community, and devote at least an hour a day to a discussion of those issues. I feel that this requirement is critical if television is to act as a means by which all communities in Los Angeles can come to understand themselves and one another. If an informed public is essential to democracy, our broadcast industry, our main source of information, must not continue to be our among our most anti-democratic institutions.

It is imperative for the broadcast industry to meet its public interest obligations and become a socially responsible vehicle that helps to shape an American culture that represents the interests of all Americans. This can be achieved only through stronger regulations, standards, and accountability, since the industry has proven itself unfit to monitor itself. Likewise, the Federal Communications Commission, the agency charged with overseeing the industry, has a responsibility to formulate policy guidelines that insure that the media is accountable to the public.

We applaud the FCC's move towards a Notice of Inquiry on the issue of digital television and the formulation of a new set of standards for the Digital Age. This is a priceless opportunity, perhaps our only opportunity to make media accountable to the communities that organizations such as MCC represent. We therefore ask that you and the Commission move forward to a Notice of Proposed Rule-Making that will begin to address the tremendous opportunities--and pitfalls--of the Digital Age.

Thanking you for your time and attention.

Sincerely yours,



Bong Hwan Kim,
Executive Director

March 6, 2000

William Kennard
Chairman
Federal Communications Commission
445 12th Street, S.W.
Washington, D.C. 20554

Dear Chairman Kennard:

I am writing on behalf of the Mexican American Legal Defense and Educational Fund (MALDEF) to respond to the Notice of Inquiry on the public interest obligations of broadcasters. As one of the nation's leading civil rights organization that works on behalf of Latinos and other under served groups, we urge the Federal Communications Commission (FCC) to set a date to establish clear guidelines to guide broadcasters during this digital age.

MALDEF is concerned over the exclusion of certain groups within the broadcast television industry, including the dearth in station ownership by Latinos and their scarcity in management ranks at these stations. We also are troubled by the continual negative portrayals of Latinos in network and local television news and their invisibility in other programming,

In research conducted for MALDEF in October 1997, the findings showed that while 50% of non-Hispanic whites felt somewhat positively towards Latinos in 1990, that number had dropped to 46% by 1997. The respondents told researchers that, except for an occasional co-worker or neighbor, the only contact they had with Latinos was through the media, and most often, through television news or prime time programs. They also pointed out that most of the images they saw were negative and suggested that media could, and should, play a role in reversing those misperceptions

In monitoring local television news for one week last month, I was inundated with auto accidents, homicides, fires, gambling on line, drug use and assaults by athletes during the sports segment -- and of course, frequent coverage of the multi-millionaire "controversy." Coverage of local primary races, controversy over the building and construction of schools in Los Angeles, and meetings of local government were missing, yet these issues directly affect the daily lives of television viewers. I was frankly surprised that not *one* story covered the activities of the city council or board of supervisors. Only three stories in five newscasts

carried stories of any real substance: a brief money report, the luxury car division of the Ford Motor Company moving to Irvine meaning more jobs for the area, and soaring gas prices. There also were helpful weather tips during the rainy weather that occurred during this time.

Clearly, local broadcasters should be required to provide news and information programming that better serves the needs of its viewers in line with the spirit of the public interest obligations long followed by broadcasters. And just as clearly, television stations are not now meeting that responsibility.

Again, I urge you to take a positive step and set clear guidelines as soon as possible. Thank you for this opportunity to participate in the Inquiry on the public interest obligations of broadcasters.

Sincerely,

Alicia Maldonado
Senior Director of Communications and Public Policy

Consumer Action

717 Market Street, Suite 310
San Francisco, CA 94103
(415) 777-9648

www.consumer-action.org

Southern California Office
523 West Sixth Street, Suite 1105
Los Angeles, CA 90014
(213) 624-4631

25 February 2000

William E. Kennard, Chairman
Federal Communications Commission
445 12th Street, S.W., Room TW13204
Washington, D.C. 20554

Dear Chairman Kennard:

Consumer Action, a statewide non-profit consumer education and advocacy organization serving consumers since 1971, is hereby responding to the Notice of Inquiry regarding the public interest obligations of broadcasters. We appreciate your commitment to fairness as evidenced by your willingness to receive these comments from concerned community representatives.

Consumer Action believes, in the interest of fairness, that since broadcasters in the nation's top ten television markets have been using digital TV since May of 1999, those same broadcasters should be held to a public standard in their programming--the least they could do for the public in return for the \$70 billion worth of public airwaves they've received, *gratis*.

As to community considerations, local broadcasters should be bound by specific operating requirements, including, but not limited to, workforce diversity, local public affairs programming, educational programming for children and adults, provide datacasting services to non-profit and educational outlets, enhance services such as closed-captioning and video description for the disabled and conduct genuine ascertations (not the pro forma kind that end up in file drawers without so much as a backward glance) community-wide to determine the needs of the community they claim they want to serve. This approach would go a long way toward satisfying their obligation to return to the community the resources it so generously provided without prior claim or standards.

It is also of concern that, heretofore, local stations were required to procure ascertainments from their respective immediate communities as to notable community issues that would benefit from network programming. However, in light of the fact that such ascertainments are no longer required, coupled with the fact that local Los Angeles stations (ex. CBS-KNXT-LA) have elected to eliminate Community Relations Departments altogether, thereby stemming any community's ability to actively participate in the programming process, it is obvious that "community" programming is being overlooked or ignored altogether. This speaks volumes to the concern these stations have for issues of public interest to local communities, a situation which should not exist considering the real source of their access to those communities.

Finally, we continue to believe that the FCC should schedule public hearings on the public interest obligations of these large broadcasting companies in light of the \$70 billion windfall they have received in publicly owned air rights. It is the only fair thing to do on behalf of local communities who are entitled to access the airwaves they own on behalf of local concerns and programs.

Thank you for your consideration.

Sincerely,

A handwritten signature in black ink, appearing to read "Cher McIntyre". The signature is fluid and cursive, with the first name "Cher" being particularly prominent.

Cher McIntyre
Director of Advocacy

CLM/dt

Date: Thu, 9 Mar 2000

From: peter morgan <peterthomas@excite.com>

Honorable Commissioners,

Consider me one of those Americans who is appalled with the condition of broadcasting throughout this country--broadcasts invading homes, and while not as physically abusive as an uncontrollable cigarette addiction, perhaps more offensive to the communal body and mind.

I have no doubt that in ten or twenty years, if an independently minded populace stills exists, the society-wide destruction commercial broadcasters facilitate via manipulative advertisers will be investigated as fervently as tobacco manufacturers were vilified in the '90s.

While it should be an individual's right to decide what is placed in one's body, it is only reasonable to know the contents of the material ingested. The Surgeon General could author a report on the carcinogenic quality of local newscasts. Following is ammunition to instigate such a review.....

I visited Los Angeles television station KCBS on the afternoon of Friday February 11, 2000 to inspect the public file. While the paperwork looked in order, the public comments eerily echoed my own disgust.

The visit was conducted 11 days after the Alaskan Air disaster just off the California coast. Based on ample experience, I sparingly viewed the suffocating news coverage, but below are quotes from KCBS viewers:

...too much speculation on crash;

...coverage totally ridiculous.;

...appalled at Ann Martin's horrible reporting of 261

tragedy.....I will NEVER again watch my local CBS newscast.;

...public is turned off by your attempts to dramatize such tragedies...;

...babbling....;

This is the same as watching a stupid car chase...is that really necessary?;

;.viewers may find these images disturbing & offensive...;

...you cannot know how much your news programming

irritates...;

Comments went further, recounting the on-air description of the graphic damage inflicted on the human body during impact. And the media sensationalizes the desensitizing effects of violent video games?

In Los Angeles, we get a story about cheap gas pump promotional prices in Cleveland, rather than a discussion of the causes of the gas rise, and community transportation improvements which might reduce future non-renewable energy dependence.

The examples could go on forever, and living in LA, this type of anemic coverage is the status quo....at KCBS, perhaps the lower end. The situation is so poor, a local alternative publication, the LA Weekly, ran a cover story titled Low Definition TV, Steven Mikulan on LA's Bad News; in December of 1999. This chronicle on the embarrassing state of local TV news generated a litany of comments in the following weeks letters to the editor, ...'Not only did the anchorpeople appear downright stupid, they mispronounced basic words, and read grammatically incorrect copy. Also, the stories were straight out of the tabloids.'... "It has reached the point in my house that I leave the room when the news comes on. You forgot to mention how the presentation of news by anchors has also been dumbed down to a series of twitches and nods, like that of a first grade teacher.";

The entertainment developed in this city influences the world; consider the manner such a media environment incubates the city's creative minds.

On the other hand, the beneficial power television promises was also seen during the station visit. A health story regarding an Alzheimer's treatment was lauded, and numerous individuals wrote in to ask for more information. The unfilled potential which could, and should be provided by local broadcasters is obvious.

Given the fact that broadcasters utilize the public's airwaves, and quite profitably, despite pleas to the contrary, the community deserves some engaging and unifying public service. In this case, here's a recommendation for a new hourly requirement of substantive professional local journalism every evening, perhaps one judged through peer review, on an agreed upon set of standards. An hour to consider such monumental, but nearly invisible, debates running from city-wide secession movements, to the state of city policing, or the evaluation of the school district.

There is an understood viewer desire for programming which contains "reality" video, running from car chases, to near-death survival. But shouldn't we create a child safe environment where either through use of V-chips or broadcaster agreement, violently visual and disturbing news stories would not seep into our children's viewing experience?

The examples could go on forever, but, if this irresponsible commercial use of the public's airwaves continues...we will jump from a vast wasteland, into a socially corrosive quicksand.

Sincerely,

Peter T. Morgan
Help Preserve Los Angeles Open Space!



March 8, 2000

Chairman William Kennard
Federal Communications Commission
445 12th Street S.W.
Washington, DC 20554

Dear Chairman Kennard:

I am responding to the Notice of Inquiry regarding the Public Interest Obligations of broadcasters as they transition to digital transmission, and urge the FCC to create a strong, clear and enforceable set of guidelines that broadcasters must follow as they reap the profits of this new technology.

As you know, the history of broadcasting can be viewed as an ongoing battle between the public and big business interests. This applies as far back as the early days of radio, when education, civic and religious groups that originally had equal access to broadcast licenses were out-muscled by wealthier commercial stations, leaving room for mass commercialization of all electronic media. In response, the government outlined a spectrum of Public Interest Obligations that today remain, albeit in different forms, the public's only response to the chorus of network signals broadcast out to us 24 hours daily.

Spurred by Public Interest mandates, broadcasters have created insightful public issue forums crucial to the democratic process, as well as educational programming for children. Public Interest Obligations have provided concerned citizens with informational files delineating their local broadcaster's employee policies and have allowed for the airing of Public Service Announcements (now almost defunct), wherein smaller, poorer organizations can gain access to the airwaves. However, today's Public Interest Obligations are not strong enough. Much more can and should be done in the future, especially at this pivotal moment in history.

It appears that the Public Interest Obligations are weakening even now within the realm of Analog TV. For example, when representatives from the nonprofit People for Better TV (PBTv) asked a local broadcaster to view its records on public service announcements (PSA's), the request was denied. The station cited a loosening of the FCC requirement in this area. At another station, CBS-LA, PBTv found that the Community Relations Department had been entirely eliminated, and its once-thriving community service programs -- mentoring, scholarships etc. -- had been simply abolished. Further, PBTv discovered that some stations hired outside contractors to respond to community letters, and that most complainants received the same generic letter back from this consultant.

In my book, [Building Blocks: A Guide for Creating Children's Educational Television](#), the entertainment community came together with education and health officials to create guidelines for responsible educational programming. In the book, the creative community agreed to supply documents for the Public Files that outline the educational aspects of a certain show for any interested party. Parents are directed in the book to

March 8, 2000

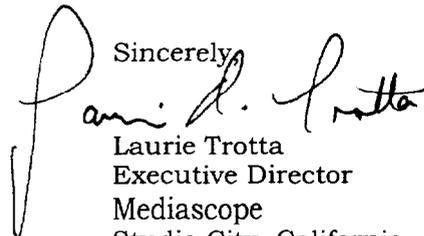
inspect these same Public Files at their local TV station. PBTv reports that several Los Angeles-based stations keep their public files in storage rooms and closet spaces that are nearly impossible to reach. These reports are worrisome, to say the least, in that broadcasters do not appear to be taking their obligations to the public seriously. This is a sign that stations are not aware of the importance of these files, and the FCC needs to be vigilant about their maintenance in the digital age.

Today, vital new chapters are being written in this conversation between entertainment megaliths, the public, and the government's role between the two. As interactivity, universal access and other key issues converge at the crossroads of digital technology, let us use history as our guide, and learn from it rather than repeat past errors.

I urge you to create a digital television landscape where there is truly equal and universal access to all; where the public's right to be served by local broadcasters is absolute; and where media is used not only to sell, not only to entertain, but to create a dialogue of diverse social, political and religious issues that remains uncensored and free. Following are my specific recommendations:

- 1.) Particular emphasis must be placed on the needs of children in the new environment. One hour of educational and informational programming per day, based on the definitions outlined by the FCC's Children's Television Rules of 1996, is an essential component to ensuring that this new technology serves the nation's youth.
- 2.) It is clear that the public interest is not being served by local news alone. If an informed public is essential to democracy, digital broadcasters must be required to consult with a broad range of local leaders about the important issues facing our communities, and to devote at least one hour a day to a discussion of those issues.
- 3.) Digital broadcasters must maintain Public Files and open lines of communication with the community it serves. Public Files must be located in an accessible area, and an ongoing dialogue with public officials should be encouraged.
- 4.) A systematic effort to complement the dominant commercial content providers with noncommercial content in the digital domain needs to be carefully developed and supported by the government.
- 5.) An open, democratic broadband infrastructure will allow all organizations -- regardless of size and economics -- a voice in the new digital environment and will ensure an even playing field and competition. This should be an imperative that is totally ensured by the FCC.

The detriments to the country if the FCC does not take measured steps to ensure diversity in the digital broadband are plentiful. Again, I urge you to set clear guidelines as soon as possible. With every new medium comes the potential for great change, to perform great service, and to do great harm. It is your choice; the future is in your hands.

Sincerely,

Laurie Trotta
Executive Director
Mediascope
Studio City, California

San Francisco

Tab D-5b

KPIX-TV
Quarterly Report
San Francisco, CA

Sandy Close and Emil Guillermo
New California Media
San Francisco, CA
3/13/00

Ken Elks
Deaf Entertainment Foundation and Guild
San Francisco, CA
3/17/00

Helen Grieco
California - National Organization for Woman
Sacramento, CA
3/12/00

**KPIX-TV
SAN FRANCISCO, CALIFORNIA**

**QUARTERLY SIGNIFICANT
PROGRAMS REPORT**

CBS BROADCASTING INC.

**THIRD QUARTER
JULY - AUGUST - SEPTEMBER 1999**

QUARTERLY SIGNIFICANT PROGRAMS REPORT

KPIX-TV
San Francisco, CA
CBS Broadcasting Inc.
3rd Quarter, July 1, 1999 - September 30, 1999

CERTIFICATION

On behalf of KPIX-TV, I certify that a copy of the Quarterly Significant Programs Report for KPIX-TV licensed to CBS Broadcasting Inc. was placed in the station's Public Inspection File on October 10, 1999.

Rosemary Roach
Program Director

QUARTERLY SIGNIFICANT PROGRAMS REPORT

KPIX-TV

San Francisco, CA

CBS Broadcasting Inc.

3rd Quarter, July 1, 1999 – September 30, 1999

PROGRAMMING STATEMENT

Station KPIX-TV, licensed to CBS Broadcasting Inc., deals with and is responsive to the principal issues in its community of license, San Francisco, California, and to the San Francisco-Oakland-San Jose television market on a continuing basis. A variety of program elements including regularly scheduled news and public affairs programming, reports on breaking news events, documentaries, specials, and public service announcements of concern to the community are included within our regular programming service. KPIX-TV's coverage of news stories, our employees' participation in community affairs, and regular interviews with community leaders have led to the determination that the issues listed are ones of importance to the San Francisco-Oakland-San Jose community. Our most significant programming which dealt with current community issues during the preceding three month period is set forth in this report. In addition to the programming set forth in this report, during this period the station also broadcast CBS Television Network programs including Face The Nation, 60 Minutes, 60 Minutes II and 48 Hours, which also addressed issues of concern to our viewers. Significant programming specifically directed to the needs of the children of our community is broken out in the children's programming section of this report.

QUARTERLY SIGNIFICANT PROGRAMS REPORT

KPIX-TV

San Francisco, CA

CBS Broadcasting Inc.

3rd Quarter, July 1, 1999 - September 30, 1999

PROGRAM INDEX

5 REPORTS - Regularly scheduled investigative reports that cover a wide range of local issues including affordable housing, health care, crime, education, traffic, welfare, childcare, domestic violence, and immigration. Broadcast daily, Monday- Friday, during the 6:30 PM and 11 PM newscast. (TRT: 3:00)

5 REPORTS SUNDAY - KPIX News Anchor Dana King hosts this weekly, half hour program that features comprehensive reports on the week's top local stories. Broadcast on Sundays at 6:30 PM.

BAY SUNDAY - Regularly scheduled, half hour studio talk show that focuses on local issues. The program also examines issues that impact specific ethnic minorities or other groups, e.g., Asian, Latino, African American, Native American, gay and lesbian and physically challenged, etc. Broadcast weekly, on Sundays, at 6:30 AM.

BRIAN'S KIDS - KPIX meteorologist Brian Sussman hosts this regularly scheduled weekly feature. Each week Brian Sussman profiles a child in need of an adoptive home. The program enjoys a 95% success rate in placing the children with families. In addition, other segments of Brian's Kids examines the need for more foster parents and the problems of finding homes for older children, teens and minorities. Broadcast Wednesdays, on the 5 PM newscast. (TRT: 1:30)

QUARTERLY SIGNIFICANT PROGRAMS REPORT

KPIX-TV

San Francisco, CA

CBS Broadcasting Inc.
3rd Quarter, July 1, 1999 - September 30, 1999

SPECIALS:

7/3/99, 8 - 9 pm: "Sutter Health Presents: Turning Back the Clock." Another in the on-going series of KPIX-produced Sutter Health specials. This one looks into the process of aging, and what each of us can do to further our productive years.

7/15/99, 7 - 8 pm: "Sutter Health Presents: Conquering Pain." New treatments to conquer the ongoing mysteries of chronic pain. Produced by KPIX; another in an on-going series of Sutter Health Presents specials.

9/22, 23, 24: Eyewitness News, Five Reports, 6:30 pm: "Turkey: A Bay Area Warning." KPIX reporter Dana King visits Turkey, a month after its magnitude 7.4 earthquake, to report on possible implications for the Bay Area.

QUARTERLY SIGNIFICANT PROGRAMS REPORT

KPIX-TV

San Francisco, CA

CBS Broadcasting Inc.

3rd Quarter, July 1, 1999 - September 30, 1999

COMMUNITY:

7/1/99, Eyewitness News, Five Reports, 6:30 pm: *Traffic & Commuting Nightmares*. If the number one issue in the Bay Area these days is traffic, the number one trouble spot is the Bay Bridge, and, specifically, the controversy over the construction of a new span. KPIX anchor Hank Plante examines the politics behind the delay.

7/6/99, Eyewitness News, Five Reports, 6:30 pm: *Central Freeway*. It's been ten years since the Loma Prieta earthquake damaged the Central Freeway. In 1997, voters told the city to re-build the span. But, last year, a second initiative said tear it down, and replace it with a ground-level boulevard. Now the on-again, off-again battle of the Central Freeway goes up before the voters a third time.

7/8/99, Eyewitness News, Five Reports, 11 pm: *Workers' Comp*. As more and more employees are suspected of cheating the workers' comp system with phony injuries, prosecutors are turning to detective agencies to catch the criminals on undercover video.

7/11/99, Bay Sunday, 6:30 am: *Awakening from the California Dream: An Environmental History*. The problems the Gold Rush created for California, and their continuing influence today; tied in with an exhibit at The Oakland Museum of History. Repeat; OAD, 5/2/99.

7/18/99, Bay Sunday, 6:30 am: *The Golden Dragon Shooting*. Bill Lee, author of "Chinese Playground: A Memoir," discussed the Golden Dragon shooting, the worst mass killing in SF history. Also on the program was a Sergeant from the SF gang taskforce, who discussed how prevalent Asian gangs are today, what kind of outreach is available for kids, and how the gang taskforce is dealing with the gang underworld.

7/21/99, Eyewitness News, Five Reports, 6:30 pm: *Tosco Victims*. As management prepared to restart the troubled Tosco refinery for the first time since last February's devastating accident, two victims of the deadly Tosco fire spoke out.

7/23/99, Eyewitness News, Five Reports, 6:30 pm: *Overcharged Consumers / Scanner Error*. One in thirty prices is mispriced, meaning that scanner errors cost consumers an estimated two and a half billion dollars each year.

7/28/99, Eyewitness News, Five Reports, 11 pm: *Non-Profit Endorsements*. There are lots of pain remedies on the shelves these days, and when a product carries a reputable name, such as the American Cancer Society or the American Lung Association, that often spells confidence to consumers. Channel 5 investigated non-profit endorsements.

QUARTERLY SIGNIFICANT PROGRAMS REPORT

KPIX-TV

San Francisco, CA

CBS Broadcasting Inc.

3rd Quarter, July 1, 1999 - September 30, 1999

COMMUNITY (continued):

8/1/99, Bay Sunday, 6:30 am: John F. Kennedy, Jr. Packages about JFK, Jr., his family's legacy, the alleged Kennedy Curse, and the general mystique and admiration surrounding the Kennedy clan.

8/2/99, Eyewitness News, Five Reports, 11 pm: Ballast Water. A new species makes its home in the Bay every 14 weeks, and about a third of those arrive in the ballast water of cargo ships. These foreign invaders can wreak havoc on native marine life. In hopes of flushing out the invaders before they get here, the Port of Oakland has introduced an ordinance requiring cargo ships to dump their ballast water at sea; opponents worry that cargo ships may take their business elsewhere.

8/8/99, Eyewitness News, Five Reports, 6:30 pm: Torah to Russia. When the Jewish population in the Russian town of Borovichi began to be intimidated by anti-Semitic nationalist groups, their sister congregation at Temple Beth Torah in Fremont started a letter-writing campaign. Since then, the town has cracked down on the nationalists, and given the Jewish community space for their first synagogue in decades. Temple members journeyed from Fremont to Borovichi to present the Jews there with a Torah, to be used in their new temple.

8/23/99, Eyewitness News, 5 pm: Shop Black Week. Every year, African-American consumers spend \$520 billion in this country. Only 5% of that, however, is spent at black-owned establishments, which is why African-American merchants in Oakland came up with the idea, "Shop Black Week."

8/27/99, Eyewitness News, Five Reports, 11 pm: Kitchen Wisdom. Grace Young and her parents have strong ties to San Francisco's Chinatown. But when Grace decided to investigate her cultural heritage and honor her ancestors, her journey didn't begin in Chinatown, or even China: It began in her family's kitchen, where Grace discovered ancient traditional recipes that had been used for generations.

QUARTERLY SIGNIFICANT PROGRAMS REPORT

KPIX-TV
San Francisco, CA
CBS Broadcasting Inc.
3rd Quarter, July 1, 1999 - September 30, 1999

SAFETY:

7/15/99, Eyewitness News, Five Reports, 11 pm: Flammable Furniture. Two people a day die from fires traced back to flammable furniture. It's a hazard most consumers don't even know is real.

7/26/99, Eyewitness News, Five Reports, 6:30 pm: Fire Safety. As fire season begins, fire-resistance steps you can do yourself to prevent property loss and loss of life.

7/27/99, Eyewitness News, Five Reports, 6:30 pm: Daycare Safety. Advice from the experts on how to check out a daycare facility.

8/10/99, Eyewitness News, Five Reports, 11 pm: Produce Washes. New products claim to clean pesticide residue from fruits and vegetables, the better to protect children from doses their small bodies can't yet handle. Channel 5 investigated the claims.

8/19/99, Eyewitness News, Five Reports, 11 pm: New Roller Coasters. They're faster and scarier than ever, but are they safe? A look at the new generation of super roller coasters, following the recent deaths of Bay Area children on roller coasters.

8/22/99, 5 Reports on Sunday, 6:30 pm: Airbag Safety. They're designed to protect you and your children. But since 1990, more than 100 people have been killed by airbags which deployed unexpectedly in low-speed, "fender-bender" accidents. Many more drivers are stunned by the type and severity of injuries caused by airbags during these minor collisions.

8/29/99, Bay Sunday, 6:30 am: Road Rage. KPIX anchor Ken Bastida hosted a CHP officer and a representative from the SF AAA in a discussion of road rage—its increase across the country and what you can do to avoid being the target of another driver's road rage.

9/2/99, Eyewitness News, Five Reports, 11 pm: Dangers of Flying. Smokehoods are said to help prevent lung damage (by filtering out smoke particles and toxic gases) in the event of an airplane fire, but you won't find them on commercial flights. Channel 5 investigated the reasons.

9/6/99, Eyewitness News, Five Reports, 11 pm: Eye Check. Drive drunk, and you'll go to jail. But drive sleepy, and nothing happens—unless you crash. Now a new portable eye test can tell if a driver is drunk or taking prescription medicines or just too tired to be on the road.

9/19/99, Bay Sunday, 6:30 am: "Kops and Kids." A Peninsula event featuring 40 law enforcement agencies and designed to target kids; topics included child emergency safety procedures, such as what to do in a fire and how to call 911.

QUARTERLY SIGNIFICANT PROGRAMS REPORT

KPIX-TV

San Francisco, CA

CBS Broadcasting Inc.

3rd Quarter, July 1, 1999 – September 30, 1999

CHILDREN'S PROGRAMMING LIAISON

**Lena Sullivan, KPIX's Public Affairs Director, is the
Children's Programming Liaison for KPIX Television.**

**Any comments regarding KPIX Television's Children's
Programming should be directed to Ms. Sullivan.**

**Ms. Lena Sullivan
Public Affairs Director
KPIX Television
855 Battery Street
San Francisco, CA 94111**

415-765-8835

QUARTERLY SIGNIFICANT PROGRAMS REPORT CHILDREN'S REPORT

KPIX-TV
San Francisco, CA
CBS Broadcasting Inc.
3rd Quarter, July 1, 1999 – September 30, 1999

PUBLIC SERVICE ANNOUNCEMENTS

Broadcast Monday - Sunday 8AM-11PM

684 Total Public Service Announcements Broadcast The Third Quarter of 1999

COMMUNITY EVENTS

San Francisco Performances
Sand Hill Challenge
San Jose Italian Festival
Walk to Cure Diabetes
Stride for Life
Oakland Chinatown Festival
Chinese Dragon Boat Racing
Cable Car Bell Ringing
Mariachi Concert
Enmanji Obon Festival
San Jose Discovery Museum

Mask Project/AIDS Awareness
Nat'l Kidney Foundation Authors Luncheon
Millbrae Art and Wine Festival
Celebration of Aloha
Oakland Italian Festival
Sonoma Auction
Celebrity High School Football Fundraiser
Nihonmachi Streetfair
The Relay Race
The Techgizmo Auction
Juvenile Diabetes Luncheon

ENVIRONMENT/RECYCLING

Where Garbage Belongs
The Garden Project
Boy Scouts Recycle

Monterey Bay
National Treasures
Get Connected to NASA

ANTI-SMOKING/DRUG PREVENTION

Davy & Glitch
Show & Tell
Rapping Smokey
Second Hand Smoke
Be Cool, Don't Smoke

Don't Do Drugs
Bee-Ball
Light Bulb
Chuck D
Too Smart To Start

QUARTERLY SIGNIFICANT PROGRAMS REPORT CHILDREN'S REPORT

KPIX-TV
San Francisco, CA
CBS Broadcasting Inc.
3rd Quarter, July 1, 1999 – September 30, 1999

PUBLIC SERVICE ANNOUNCEMENTS

Broadcast Monday - Sunday 8AM-11PM

684 Total Public Service Announcements Broadcast The Third Quarter of 1999

EDUCATION

CSAA Commute Map	Summer Reading
Oakland Zoo	KKSF-AIDS Sampler
History Museum	Oakland Dog Haus Museum
Mr. Rogers Exhibit	Other Cultures (Islamic Community)
Tech Museum	Kidney Foundation
Juvenile Diabetes Foundation	Bugs Exhibit
Stay In School	Robot Zoo
National Guard	California 5 A Day (Fruit Servings)
San Jose Discovery Museum	Tech Challenge

HEALTH

HIV/AIDS/African American Women	Peer Educator/Safe Sex
Breast Cancer Awareness	Prostate Cancer Awareness
Parkinson's Disease	San Francisco Food Bank
Veterans Stand Down 2000	Communication
Gofer Cakes	Shaq's Secret
Frequent Numbers	Special Olympics
Boys and Girls Club	Santa Clara Boy Scouts

SAFETY

Earthquake Preparedness	Battered Women's Alternative
Brain	Stimulant
Raiders Pedestrian Safety	Crawl Low Under Smoke
NBA/Responsibility	Earthquake/Bed
Don't Talk to Strangers	Stop, Drop, Roll/Fire Safety

QUARTERLY SIGNIFICANT PROGRAMS REPORT

KPIX-TV
San Francisco, CA
CBS Broadcasting Inc.
3rd Quarter, July 1, 1999 - September 30, 1999

EDUCATION:

7/11/99, 5 Reports on Sunday, 6:30 pm: **White Supremacists in Our Midst.** When Benjamin Smith went on a summertime rampage, shooting at blacks, Jews, and Asians near Chicago, investigators announced that he had ties to a Northern California white supremacy group known as the Church of the Creator. KPIX anchor Hank Plante met with Church members to ask them, directly, about their intentions to eliminate blacks, Jews, and Asians.

7/13/99, Eyewitness News, Five Reports, 11 pm: **Flavored Cigarettes for Kids.** They come in such flavors as French vanilla, smooth chocolate, and strawberries and cream. It's a new brand of cigarettes, called Bidis, and teens are hooked. Because Bidis release two to three times more tar and nicotine than regular cigarettes, doctors are calling them a dangerous new trend.

7/20/99, Eyewitness News, Five Reports, 6:30 pm: **Space Camp for Kids.** At the NASA Ames Space Camp in Mountain View, kids learn what it means to train for a space mission.

8/8/99, Bay Sunday, 6:30 am: **Black Tar Heroin.** Steve Okazaki introduces his new HBO documentary on kids in San Francisco and their addiction to Black Tar Heroin—what it is, what the problem is, what treatments are available. Repeat; OAD, 4/11/99.

8/15/99, Five Reports on Sunday, 6:30 pm: **Project Rebound.** A Bay Area programs prepares students for the transition from jail to university.

8/20/99, Eyewitness News, Five Reports, 11 pm: **Too Much Homework.** How much is too much? Some Bay Area schools have created parent-teacher committees to study the question, and homework centers to help see that it gets done.

9/12/99, Eyewitness News, Five Reports, 6:30 pm: **Hate Online.** When swastikas and other symbols of racism reach your child over the Internet, parents can fight back with special software programs specifically designed to block hate sites.

9/26/99, Bay Sunday, 6:30 am: **The Colorado School Shooting: Could It Happen Here?** City Supervisor Leland Yee and Dan Macallair of the SF Center of Juvenile and Criminal Justice discuss the Colorado school shooting, and what is being done to prevent something like it from happening in SF. Repeat, OAD 4/25/99.

QUARTERLY SIGNIFICANT PROGRAMS REPORT

KPIX-TV

San Francisco, CA

CBS Broadcasting Inc.

3rd Quarter, July 1, 1999 – September 30, 1999

HEALTH:

7/4/99, 5 Reports on Sunday, 6:30 pm: Toxic Shock. New feminine products claim to protect women against toxic shock. Channel 5 News investigated the claims.

1/12/99, Eyewitness News, Five Reports, 11 pm: Washing Away Germs. We expect washing machines to get rid of dirt and germs. New research, however, finds that regular laundry detergent doesn't kill bacteria or viruses.

7/22/99, Eyewitness News, Five Reports, 6:30 pm: Emotional Support for Cancer Victims. Researchers at Stanford University say emotional support may treat more than attitudes...it may actually curb cancer growth.

8/3/99, Eyewitness News, Five Reports, 11 pm: Controlling Anger. The number of kids committing violent acts has increased at a disturbing rate in recent years. Stanford University's Anger Management Program helps violence-prone children re-channel their feelings.

8/4/99, Eyewitness News, Five Reports, 6:30 pm: Taking Charge of Your Health Care. Cancer patient Alice Hodge sets forth what she's learned from her own firsthand experiences in dealing with doctors, hospitals, and insurance companies.

8/11/99, Eyewitness News, Five Reports, 11 pm: Sjogren's Syndrome. A growing number of men and women are being diagnosed with a mysterious disease, believed to be an auto-immune disorder, that causes fatigue and extreme dryness of the eyes and mouth.

8/25/99, Eyewitness News, Five Reports, 6:30 pm: Multiple Chemical Sensitivity (MCS). It's said that we have introduced 80,000 chemicals into our modern lives, and that about a third of the general population has some sensitivity to chemicals in everyday doses. Untreated, MCS has been known to cause asthma, headaches, severe fatigue, and heart problems.

Honorary Committee

Eunice Azzani
Chamber of Commerce

Eddie Whitehead
KPST - TV 66

Mary Bitterman
KQED

Phil Bronstein
San Francisco Examiner

Bruce Brugman
San Francisco Bay Guardian

Geoffrey Cowan
Annenberg School
of Communications

Min-Sheng Su
World Journal

Belva Davis
Television Program Host

Ted Fang
The Independent

Mervin Field
Field Research Inc.

Holger Gantz
San Francisco Hilton

Felix Gutierrez
Freedom Forum

Jay Harris
San Jose Mercury News

Scott G. Hauge
Small Business Network

Charles Jackson
Oakland Tribune

Tim Lau
Sing Tao Daily

Bill Lee
City Administrator

David Lee
CAVEC

Mónica C. Lozano
La Opinión

Henry A.J. Ramos
Mauer Kunst Consulting

James V. Risser
Knight Fellowship
Stanford University

Orville Schell
UC-B School of Journalism

Erna Smith
SF State Journalism Dept.

Don Solem
Solem & Associates

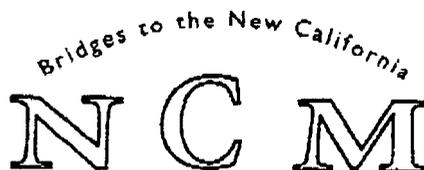
Sandra Thomas
KDTV

Matthew Wilson
San Francisco Chronicle

Lawrence Wilkinson
Oxygen Media

Mona Lisa Yuchengco
Filipinas Magazine

Partial Listing



A Collaboration Between California Ethnic Media
and Pacific News Service

Feb. 27, 2000

Chairman William E. Kennard
Federal Communications Commission
445 12th Street, S.W., Room TW 13204
Washington, DC 20554

Dear Chairman Kennard,

Pacific News Service and the New California Media urge the Federal Communications Commission to set clear guidelines for all local broadcasters to operate in the interests of all members of the public they are licensed to serve.

There are numerous examples of how local broadcasters give short shrift to the concerns of the multi-racial, multi-ethnic communities that now comprise the San Francisco Bay Area.

For much of 1999, local broadcasters reported on the case of the "China spy" (referring to the Los Alamos scientist Wen Ho Lee), long before he was formally charged with any wrong doing. They seemed oblivious to the fact that Chinese Americans saw both the accusations against Lee and the media coverage of his case as blatant examples of racial profiling. (In the words of one Chinese businessman from Silicon Valley, "You don't have to be pulled over to the side of the road to be a target of racial profiling.") Only after we convinced the PBS News Hour with Jim Lehrer to cover the deep anger over the Wen Ho Lee case in the Chinese community did mainstream as well as local broadcasters begin to access voices from the Chinese American community.

This year, with elections dominating the news, one looks in vain for daily coverage of ethnic voting trends by local broadcasters. When and if local stations explore the "ethnic angle" in depth, invariably it is because they have decided to produce a "special" -- as in KRON's award winning series on race in 1999. They have yet to acknowledge that focusing on the ethnic stories should

660 Market Street, Suite 210 - San Francisco, California 94104
phone: 415-438-4755 fax: 415-438-4935 e-mail: ncm@pacificnews.org

be "business as usual" rather than an "affirmative action concession" -- a footnote to the main event.

Candidates' debates broadcast over the network local affiliates are routinely conducted by representatives from mainstream TV and print media -- invariably people who are out of touch with the concerns of major communities of color. Yet the nightly news anchors of Spanish, Mandarin, Cantonese and Korean language television stations in the Bay Area command large audiences and are exactly the people who should be fielding questions to candidates.

Local broadcasters have extraordinary access to the booming dot.com economy of Silicon Valley, let alone San Francisco's multi-media south of market world. Rarely does their coverage portray this as anything but an all- white world, despite the fact that Chinese, Indians and Vietnamese are at the forefront of the boom.

Perhaps the recent growth of in-language ethnic media has convinced local broadcasters they no longer have to provide the "ethnic" angle to the news of the day. Too bad that they haven't realized that the ethnic broadcasters, like the ethnic press, represent a tremendous opportunity for collaboration. To access the headline stories and reporters of the Chinese language press, the Korean-language TV news broadcasts, the Spanish language radio, the black weeklies, for example, would help them turn local broadcast news into a more truly inclusionary public forum.

By failing to reflect the wealth of diverse cultures in the Bay Area, local TV broadcasters forfeit any claim to representing a true picture of who we are and who we are becoming as a metropolis. At a time when the "mainstream" no longer exists, local TV broadcasters -- both commercial AND public -- might best be described as the Bay Area's white ethnic TV media.

Sincerely,
 
Sandy Close and Emil Guillermo
New California Media
Pacific News Service

Date: Fri, 17 Mar 2000
Subject: Letter to Chairman Kennard

March 17, 2000

Dear Chairman Kennard:

Deaf Entertainment Foundation (DEF) is responding to the Notice of Inquiry on the public interest obligations of broadcasters.

We at DEF urge the FCC to set a date to establish clear guidelines, broadcasters in our community are sending digital signals and we have a right to know what their obligations are to serve our deaf and hard of hearing community.

We at DEF think local broadcasters should be required to do the following: employ a diverse workforce; put an hour a day of local public affairs programs on all of the channels they broadcast; put an hour a day of educational programs for children on all the channels they broadcast; provide datacasting services to non-profit and educational institutions in the local community; provide enhanced closed-captioning or video description services for persons with disabilities (especially emergency and non-emergency news broadcast); and ascertain the needs of all the segments of their community and air programs accordingly.

Broadcasters may claim to be addressing the need, which the above recommendation will fill. However, it has come to our attention that their claim to have addressed (diversity; service to persons with disabilities; public affairs programs addressing the needs; educational children's programs; etc) is far from true. We therefore express our disappointment and concern.

Closed-captioning is of vital importance to our deaf and hard of hearing community, as our children are in need of equal access to education and general information as provided to the public. Furthermore, the deaf and hard of hearing community need to know immediately when there is an emergency

of natural or any other type of disaster (such as earthquake, tornado or airplane crash, etc.) so they can prepare to save lives or spread public awareness. If a program is not captioned, i.e., emergency or non-emergency, via local or national broadcast, could be perceived as a form of discrimination against one segment of a society. If your local station aims to serve the public, it should aim to serve all of the public, not just parts. No minority or persons with disabilities should be overlooked when it comes to broadcasting an important message to them.

Much more can and should be done in the future. Again, we urge you to set clear guidelines as soon as possible. Thank you for this opportunity to participate in the Inquiry into the public interest obligations of broadcasters.

Sincerely,

Ken Elks
Executive Director / CEO
Deaf Entertainment Foundation and Guild

KE/dm

Cc: the Executive Board of Directors at DEF
Cc: Ofelia Cuevas, People for Better TV



Helen Grieco, President California National Organization for Women
 926 J Street Suite 820
 Sacramento, CA 95814
 916 442 3414

CA NOW Action Center
 926 J Street, Suite 820
 Sacramento, CA 95814
 Tel: 916-442-3414
 Fax: 916-442-3414
 e-mail: helen@now.org
 http://www.now.org

February 28, 2000

Greetings Chairman Kennard,

NOW is responding to the Notice of Inquiry on the public interest obligations of broadcasters.

We urge the FCC to set a date to establish clear guidelines, broadcasters in my community are sending digital signals and I have a right to know what their obligations are to serve our community.

NOW thinks local broadcasters should be required to employ a diverse workforce. We are outraged at the possibility that the FCC would drop affirmative actions guidelines. We also think broadcasters should provide:

- at least an hour a day of public affairs programs, educational programs
- provide datacasting services to non-profits and educational institutions
- closed captioning and video description for the disabled
- do community outreach to find out what the programming needs are

Some broadcasters may claim to be addressing the needs that we just outlined however our station visits put this in question. Earlier this month I visited two stations, KTVU and KRON. While these stations provide a standard list of community issues, it is clear from the program reports that this list isn't worth the paper it's printed on. Not only are their lists so generic as to be unhelpful, it's clear that they don't change from quarter to quarter (unlike the challenges in our very diverse community). Both of these channels rely heavily on local news as a means of satisfying their obligation to provide for discussion of important issues. One look at the news makes it clear that as good as it may be in providing headlines, sound bites from mainly white males are not a valid substitute for discussion from a range of perspectives.

Here are the results from my two station visits.
 KTVU FOX network in Oakland California
 The personnel were very helpful. The files were very orderly and accessible. I was permitted to view the files alone.

President
 Helen Grieco

LEGISLATIVE ADVOCATE
 ELIZABETH MCCORMACK

CALIFORNIA CHAPTERS

- Alameda County - South
- Amador-Calaveras
- Cal Poly Pomona
- Cal Poly San Luis Obispo
- Contra Costa
- Fresno
- Lompoc Valley
- Long Beach
- Los Angeles
- Marin County
- Monterey Peninsula
- Oakland/East Bay
- Orange County
- Palm Springs
- Palo Alto-Mid Peninsula
- Palo Verde/South Bay
- Pasadena Area
- Sacramento
- San Diego County
- San Fernando Valley
- San Francisco
- San Gabriel Valley/Whittier
- San Joaquin
- San Jose/South Bay
- San Luis Obispo
- Santa Barbara
- Santa Cruz County
- Scripps College
- Shasta
- Siskiyou
- Sonoma County
- Southwest Riverside
- Tri-Valley
- UC Davis
- Ventura-Oxnard
- Yolo County
- Yuba Sutter

(partial list)



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PRESIDENT
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 ELIZABETH MCGOWAN

**CALIFORNIA
 CHAPTERS**

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- Cal Poly Pomona
- Cal Poly San Luis Obispo
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- Fresno
- Lospez Valley
- Long Beach
- Los Angeles
- Marin County
- Monterey Peninsula
- Oakland / East Bay
- Orange County
- Palm Springs
- Palo Alto-Mid Peninsula
- Palos Verdes/South Bay
- Pasadena Area
- Sacramento
- San Diego County
- San Fernando Valley
- San Francisco
- San Gabriel Valley / Whittier
- San Joaquin
- San Jose/South Bay
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- Santa Cruz County
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- Simi-Conejo
- Sonoma County
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(partial list)

In the files:

A copy of the EEO requirements. I did not see the annual employment records.

I did not see any files on citizen agreements.

I did see files on letters and email for complaints. For 1999 the complaints were about a PAC Bell caller id ad that used a character that was mentally retarded. After a special on anti-violence they ran an ad the said "kill my boss" which drew heavy criticism. There were complaints about ads for the Super Bowl. Complaints about a news show that reported on a gay underworld which viewer's thought was misleading and would result in gay bashing. The praise letters were about the stations contributions to community causes.

They have the following community programs. Not nearly enough to cover the communities needs. They use the news programs to meet the requirements.

- American Black Forum
- Bay Area Back Roads
- Mornings on 2
- Family 2 Family

Children's Programming

They do an good job here.

They have children's programs Monday - Friday from 2-4 pm

Saturday from 6 M to noon

Sunday from 6 AM to 10 AM

I did not see the reports on advertising limits- that may be my error.

They have the political ad files and in order.

KRON NBC San Francisco

Javier Valencia who helped me do the site visit was very helpful. The files were in order. I was not permitted to be alone he had to stay to watch me throughout the visit. I had to fill out a request to view the files. This station did not agree to sign a new contract with NBC as the network was asking 10 million to carry syndicated programs. Javier told me that a few years back NBC paid the station 7 million to carry programs. The resolution to this conflict will be monitored by stations nation-wide.

In the files:

I did see the annual employee reports but no EEO requirements on file.

I did not see any files on citizen agreements.

The political ad files were in order.



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(partial list)

They make ONLY the minimal commitment to children's programming. 3 to 3.5 hours per week. No programs during the week. On weekend they do 7 AM to 8 AM 10 AM to 11AM and 3 to 4:30 PM. However, their one show First Cut is very good.

Their shows which are used to meet community issues again as with KTVU are mostly news shows:
 Day Break—news
 Mid Day—news
 Bay Area Back Roads
 They have THREE religious shows

In their FCC reports for all four quarters they list the same community coverage on issues. Arms Race, Civil Rights, Crime/ law enforcement, Disabled, Drugs/Alcohol abuse, Education, Elderly, Employment, economy, poverty, Environment, Government, Health, Housing, Homelessness, Religion, Transportation,

Complaints: Many complaints about showing violence in the news—too graphic. Many complaints about how difficult it was to get their signal along the coast. Complaints about the close captioned—not in sync and losing some translation. Complaints about sexual stereotyping in advertising. The news crews were not always professional—to casual when reporting serious issues. Complaints about reporters simplifying categories of race not being precise enough. Praise: A series they did on race in America. Many requests for copies. Praise from many non-profits for help from the station for the homeless community. Letters from police to thank the station for helping to bring in leads on cases involving kidnapping. Also for holding back information and not sensationalizing information.

All in all I was very disappointed that such a valuable resource—the publicly owned airwaves—are being so underutilized in our communities. Clearly we can and must do more to ensure the broadcasters are not just meeting these minimal requirements but are committed by law to truly give something back for the 70 billion dollar give away of digital spectrum!

We are very concerned about the violence, stereotyping, sexual exploitation and lack of social responsibility in our media. We urge you to raise the bar on broadcasting standards for our citizens, our children and our future.

Respectfully,  Helen Grieco