



PUBLIC NOTICE

Federal Communications Commission
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DA 07-1716

Released: April 17, 2007

MM Docket No. 00-167

COMMISSION SEEKS COMMENT ON THE STATUS OF CHILDREN'S TELEVISION PROGRAMMING

Comment Date: [30 days after date of publication in the Federal Register]

Reply Comment Date: [45 days after date of publication in the Federal Register]

1. In this Public Notice, we seek comment on the status of children's television programming, and compliance with the Children's Television Act ("CTA")¹ and the Commission's rules.

2. The CTA requires the Commission, in its review of each television broadcast license renewal application, to "consider the extent to which the licensee . . . has served the educational and informational needs of children through the licensee's overall programming, including programming specifically designed to serve such needs."² In enacting the CTA, Congress found that, while television can benefit society by helping to educate and inform children, there are significant market disincentives for commercial broadcasters to air children's educational and informational programming.³ The objective of Congress in enacting the CTA was to increase the amount of educational and informational programming available on television.⁴ The CTA accomplished that objective by placing on every licensee an obligation to provide such programming, including programming specifically designed to educate and inform children, and by requiring the FCC to enforce that obligation.

3. In November 2004, the Commission released a *Report and Order and Further Notice of Proposed Rule Making* ("2004 Order") in MM Docket No. 00-167, Children's Television Obligations of Digital Television Broadcasters. The *2004 Order* addressed matters related to the obligation of television licensees to provide educational programming for children and the requirement that television licensees protect children from excessive and inappropriate commercial messages.⁵

¹ Children's Television Act of 1990, Pub. L. No. 101-437, 104 Stat. 996-1000, *codified at* 47 U.S.C. §§ 303a, 303b, 394.

² 47 U.S.C. § 303b.

³ 47 U.S.C. § 303a & b. *See also* S. Rep. No. 227, 101st Cong., 1st Sess 5-9 (1989) (Senate Report).

⁴ *See* Senate Report at 1.

⁵ In September 2006, the Commission released a *Second Order on Reconsideration and Second Report and Order*

4. As part of the *2004 Order*, the Commission indicated that it intended to issue a Public Notice “seeking comment on whether broadcasters are complying with the letter and intent of the CTA in terms of, among other things, the amount and quality of core children's programming being provided and the extent of preemption of such programming.”⁶ More recently, the Commission entered into a Consent Decree with Univision to resolve petitions to deny filed against pending license renewal applications.⁷ Petitioners alleged that certain Univision stations did not comply with the children’s programming rules, claiming that the programs relied upon as “core” did not serve the educational and informational needs of children.

5. This Public Notice is being issued in furtherance of the *2004 Order*. We invite comment regarding the state of children’s television programming. Are licensees complying with the CTA? Does the programming that licensees have reported as core children's programming generally meet the Commission’s standards? Educational and informational television programming is defined by the Commission as:

any television programming that furthers the educational and informational needs of children 16 years of age and under in any respect, including the child's intellectual/ cognitive or social/emotional needs. Programming specifically designed to serve the educational and informational needs of children (‘Core Programming’) is educational and informational programming that satisfies the following additional criteria:

- (1) It has serving the educational and informational needs of children ages 16 and under as a significant purpose;
- (2) It is aired between the hours of 7:00 a.m. and 10:00 p.m.;
- (3) It is a regularly scheduled weekly program;
- (4) It is at least 30 minutes in length;
- (5) The program is identified as specifically designed to educate and inform children by the display on the television screen throughout the program of the symbol E/I;
- (6) The educational and informational objective and the target child audience are specified in writing in the licensee's Children's Television Programming Report, as described in § 73.3526(e)(11)(iii); and
- (7) Instructions for listing the program as educational/ informational, including an indication of the age group for which the program is intended, are provided by the licensee to publishers of program guides, as described in § 73.673.⁸

(“*2006 Order*”), which adopted the recommendations of a Joint Proposal submitted by representatives of the broadcast and cable industries and public interest groups involved in children’s television issues. This *2006 Order* modified and clarified the rules adopted in the *2004 Order*.

⁶ *Children’s Television Obligations Of Digital Television Broadcasters*, Report and Order and Further Notice of Proposed Rule Making, 19 FCC Rcd 22943, 22966 (2004).

⁷ *Shareholders of Univision Communications Inc. (Transferor) and Broadcasting Media Partners, Inc. (Transferee)*, Memorandum Opinion and Order, FCC 07-24, ¶¶ 40-42 (rel. March 27, 2007). Univision paid \$24,000,000 in connection with the Consent Decree.

⁸ 47 C.F.R. § 73.671(c). See also Note 1 “For purposes of determining under this section whether programming has a significant purpose of serving the educational and informational needs of children, the Commission will ordinarily

6. Are the core programming criteria listed in the Commission's rules adequate to properly define educational and informational programming?⁹ Do these criteria fulfill the requirements of the CTA? Should the Commission consider additional criteria? Does the current level of preemption affect compliance with the CTA and Congressional intent? In what other ways are licensees complying, or not, with the CTA and the Commission's rules related to children's programming?

7. *Ex Parte Rules.* This proceeding will be treated as a "permit-but-disclose" proceeding subject to the "permit-but-disclose" requirements under section 1.1206(b) of the Commission's rules.¹⁰ *Ex parte* presentations are permissible if disclosed in accordance with Commission rules, except during the Sunshine Agenda period when presentations, *ex parte* or otherwise, are generally prohibited. Persons making oral *ex parte* presentations are reminded that a memorandum summarizing a presentation must contain a summary of the substance of the presentation and not merely a listing of the subjects discussed. More than a one- or two-sentence description of the views and arguments presented is generally required.¹¹ Additional rules pertaining to oral and written presentations are set forth in section 1.1206(b).

8. Pursuant to Sections 1.415 and 1.419 of the Commission's rules,¹² interested parties may file comments and reply comments on or before the dates indicated on the first page of this document. **All filings must be submitted in MM Docket No. 00-167.** Pleadings sent via e-mail to the Commission will be considered informal and will not be part of the official record. Comments may be filed using: (1) the Commission's Electronic Comment Filing System (ECFS), (2) the Federal Government's eRulemaking Portal, or (3) by filing paper copies.¹³

- Electronic Filers: Comments may be filed electronically using the Internet by accessing the ECFS: <http://www.fcc.gov/cgb/ecfs/> or the Federal eRulemaking Portal: <http://www.regulations.gov>. Filers should follow the instructions provided on the website for submitting comments.
 - For ECFS filers, in completing the transmittal screen, filers should include their full name, U.S. Postal service mailing address, and the applicable docket number: MM Docket No. 00-167. Parties may also submit an electronic comment by Internet e-mail. To get filing instructions, filers should send an e-mail to ecfs@fcc.gov, and include the following words in the body of the message: "get form". A sample form and instructions will be sent in response.
- Paper Filers: Parties who choose to file by paper must file an original and four copies of each filing. Filings can be sent by hand or messenger delivery, by commercial overnight courier, or by first-class or overnight U.S. Postal Service mail (although we continue to experience delays in receiving U.S. Postal Service mail). All filings must be addressed to the Commission's Secretary, Office of the Secretary, Federal Communications Commission.

rely on the good faith judgments of the licensee. Commission review of compliance with that element of the definition will be done only as a last resort."

⁹ *See id.*

¹⁰ *See* 47 C.F.R. § 1.1206(b); *see also* 47 C.F.R. §§ 1.1202, 1.1203.

¹¹ *See* 47 C.F.R. § 1.1206(b)(2).

¹² 47 C.F.R. §§ 1.415 and 1.419.

¹³ *See Electronic Filing of Documents in Rulemaking Proceedings*, 13 FCC Rcd 11322, 11326, ¶ 8 (1998).

- The Commission's contractor will receive hand-delivered or messenger-delivered paper filings for the Commission's Secretary at 236 Massachusetts Avenue, NE, Suite 110, Washington, D.C. 20002. The filing hours at this location are 8:00 a.m. to 7:00 p.m. All hand deliveries must be held together with rubber bands or fasteners. Any envelopes must be disposed of *before* entering the building.
- Commercial overnight mail (other than U.S. Postal Service Express Mail and Priority Mail) must be sent to 9300 East Hampton Drive, Capitol Heights, MD 20743.
- U.S. Postal Service first-class mail, Express Mail, and Priority Mail should be addressed to 445 12th Street, SW, Washington, D.C. 20554.
- People with Disabilities: To request materials in accessible formats for persons with disabilities (Braille, large print, electronic files, audio format), send an email to fcc504@fcc.gov or contact the Consumer and Governmental Affairs Bureau at (202) 418-0530 or (202) 418-7365 (TTY).
- Copies of any filed documents in this matter are also available for inspection in the Commission's Reference Information Center:

445 12th Street, S.W.
Washington, D.C. 20554
(202) 418-7092

9. For further information, contact Holly Saurer of the Media Bureau, (202) 418-2120. Press inquiries should be directed to Clyde Ensslin, (202) 428-0506. TTY: (202) 418-7172 or (888) 835-5322.

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