

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

In the Matter of)
)
Implementation of the Consolidated Appropriations) MB Docket No. 19-41
Act of 2019; Report on Television Ratings and The)
Oversight Monitoring Board)

REPORT

Adopted: May 15, 2019

Released: May 16, 2019

By the Chief, Media Bureau:

I. INTRODUCTION

1. We submit this Report to the Committees on Appropriations of the House and Senate pursuant to the Consolidated Appropriations Act of 2019 (Act).¹ The Act directs the Commission to provide to the committees a report on the accuracy of the television content rating system, known as the TV Parental Guidelines, and the ability of the governing body for TV ratings, the TV Parental Guidelines Oversight Monitoring Board (Board or TVOMB), to oversee the rating system and address public concerns about it.² In the Act, enacted on February 15, 2019, Congress directed the Commission to report on these issues within ninety (90) days of enactment, or by May 15, 2019.

2. The Media Bureau issued a *Public Notice* on February 26, 2019 to inform our preparation of this Report.³ We received over 1,770 comments in response thereto.⁴ This Report analyzes the input we received and provides suggestions for improvements to the Board and the video programming industry, which is responsible for applying the TV ratings.

II. BACKGROUND

3. In the Telecommunications Act of 1996 (1996 Act), Congress determined that parents should be provided with timely information about the nature of upcoming video programming and with the technical tools that would readily allow them to block violent, sexual, or other programming that they believe is harmful to their children.⁵ The 1996 Act directed the Commission to adopt a V-chip

¹ See Consolidated Appropriations Act, 2019, Pub. L. No. 116-6, Explanatory Statement (H.R. Rep. No. 116-9, Division D, Title V, p. 673 (Conf. Rep.)), 133 Stat. 13 (2019) (Act).

² The explanatory statement in the Act provides: “Oversight Monitoring and Rating System....the FCC is directed to report to the Committees on Appropriations of the House and Senate within 90 days of enactment of this Act on the extent to which the rating system matches the video content that is being shown and the ability of the TV Parental Guidelines Oversight Monitoring Board to address public concerns.” *Id.*

³ See *Media Bureau Seeks Comment on the TV Ratings System and the Oversight Monitoring Board*, MB Docket. 19-41, Public Notice, DA 19-120 (Feb. 26, 2019) (*Public Notice*).

⁴ The vast majority of comments received were filed by individual consumers.

⁵ See 47 U.S.C. § 303(x) (added by the Telecommunications Act of 1996, Pub. L. No. 104-104, § 551(c), 110 Stat. 56, 141 (1996)). This provision directed the Commission to require that television sets be equipped with a feature that permits viewers to block programs based on ratings. The V-chip is a technology built into televisions that “allows parents or other caregivers to block programming on their TVs that they don’t want children to watch.”

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requirement for television sets to allow parents to control the programming that their children watch.⁶ All television sets manufactured in the United States or shipped in interstate commerce meeting certain size thresholds had to be equipped with a V-chip system effective January 1, 2000.⁷ Congress also provided that distributors of video programming should be given the opportunity to develop a voluntary system to provide parents with ratings information.⁸ Specifically, in the 1996 Act, Congress gave the Commission authority to establish a rating system,⁹ but only if program distributors failed, after one year from the date of enactment of the 1996 Act, to develop a voluntary rating system that was acceptable to the Commission.¹⁰

4. In response to the 1996 Act, the National Association of Broadcasters (NAB), the National Cable Television Association (NCTA),¹¹ and the Motion Picture Association of America (MPAA) (collectively referred to herein as the Industry Representatives), on behalf of their members, jointly submitted to the Commission a proposed system of voluntary parental guidelines (TV Parental Guidelines) to be adopted and implemented by television broadcasters and networks, cable networks and systems, and television program producers. The Industry Representatives also committed to establish an “Oversight Monitoring Board to ensure that the [TV Parental] Guidelines are applied accurately and consistently to television programming.”¹² In a 1998 Order, the Commission, after consultation with non-profit organizations and interested individuals from the private sector, found that the Industry Representatives’ proposed TV Parental Guidelines, and the related commitments regarding the Board, complied with the directive of the 1996 Act.¹³ The voluntary rating system approved by the Commission in 1998 remains in effect today.

5. *TV Parental Guidelines.* The existing TV Parental Guidelines contain both age and content-based ratings. The age-based ratings are: TV-Y (all children); TV-Y7 (directed to older children - age 7 and older);¹⁴ TV-G (general audience); TV-PG (parental guidance suggested); TV-14 (parents

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Federal Communications Commission, *The V-Chip: Options to Restrict What Your Children Watch on TV* (Sept. 18, 2017), <https://www.fcc.gov/consumers/guides/v-chip-putting-restrictions-what-your-children-watch>.

⁶ *Id.*

⁷ See 47 CFR § 15.120(b).

⁸ See 47 U.S.C. § 303(w).

⁹ Congress directed the Commission, after consulting with an independent advisory board, to establish a system for rating video programming that parents could use to determine the appropriateness of specific programming for their children. Section 303(w) of the Communications Act, as added by Section 551(b)(1) of the 1996 Act, provides in part that the Commission shall prescribe “on the basis of recommendations from an advisory committee . . . , guidelines and recommended procedures for the identification and rating of video programming that contains sexual, violent, or other indecent material about which parents should be informed before it is displayed to children.” 1996 Act, § 551(b)(2), codified at Section 303(w)(2) of the Communications Act, 47 U.S.C. § 303(w)(2).

¹⁰ Section 551(e)(1) of the 1996 Act provides: “The amendment made by subsection (b) of this section shall take effect 1 year after the date of enactment of this Act, but only if the Commission determines, in consultation with appropriate public interest groups and interested individuals from the private sector, that distributors of video programming have not, by such date (a) established voluntary rules for rating video programming that contains sexual, violent, or other indecent material about which parents should be informed before it is displayed to children, and such rules are acceptable to the Commission.” 1996 Act, § 551(e)(1).

¹¹ This group is now called NCTA—The Internet and Television Association.

¹² Letter from Jack Valenti, President and CEO, MPAA, Decker Anstrom, President and CEO, NCTA, and Eddie Fritts, President and CEO, NAB, to William F. Caton, Secretary, FCC at 4 (January 17, 1997) (Industry Representatives January 17, 1997 Letter). A copy of the letter is attached as an appendix to a February 7, 1997 Public Notice. *Commission Seeks Comment on Industry Proposal for Rating Video Programming*, CS Docket No. 97-55, Public Notice, 12 FCC Rcd 3260, 3264-3273 (1997).

strongly cautioned - may be unsuitable for children under 14); and TV-MA (mature audience only - may be unsuitable for children under 17). The content-based descriptors, which are included in the ratings where appropriate, are: V (violence); FV (fantasy violence in children's programming); S (sexual content); D (suggestive dialogue); and L (strong language in programming).¹⁵ The guidelines apply to most television programming -- including both broadcast and cable programming -- except for news and sports programming, most religious and home shopping programming, and advertisements.¹⁶ For episodic television programs, each individual episode is rated independently and different episodes may be rated differently depending upon their content.¹⁷

6. Ratings information is displayed in the form of an icon in the top left corner of the TV screen for 15 seconds at the beginning of, and often after commercial breaks during, all rated programming.¹⁸ For programs longer than one hour, the icon reappears at the beginning of the second hour.¹⁹ The ratings are also encoded to allow consumers to block shows with certain content-based or aged-based ratings using a V-chip,²⁰ or through parental control systems offered by cable and satellite providers.

7. *Oversight Monitoring Board.* When the Industry Representatives first committed to establish an Oversight Monitoring Board in connection with the TV Parental Guidelines,²¹ they explained to the Commission that:

[t]he Oversight Monitoring Board will provide information to producers and other program distributors concerning the [TV Parental] Guidelines, as well as address complaints and requests from the public about the Guidelines and their implementation. The Oversight Monitoring Board will regularly hear the views of parents through an ongoing effort that will explore attitudes about the TV Parental Guidelines and the way in which they are being applied to programming. The Board will also regularly conduct focus groups and commission quantitative studies to determine whether the Guidelines are in fact providing useful information to parents and will consider any

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¹³ *Implementation of Section 551 of the Telecommunications Act of 1996, Video Programming Ratings*, CS Docket No 97-55, Report and Order, 13 FCC Rcd 8232 (1998) (*Implementation Order*).

¹⁴ According to the comments filed jointly by NAB, NCTA, and MPAA (Industry Representatives), the TV-Y and TV-Y7 ratings "identify programs designed specifically for children." Industry Representatives Comments at 6.

¹⁵ More specifically, the *TV Parental Guidelines* (labels and content indicators, and respective meanings) are:

"For programs designed solely for children:

TV-Y (All Children -- *This program is designed to be appropriate for all children*). Whether animated or live-action, the themes and elements in this program are specifically designed for a very young audience, including children from ages 2-6. This program is not expected to frighten younger children.

TV-Y7 (Directed to Older Children -- *This program is designed for children age 7 and above*). It may be more appropriate for children who have acquired the developmental skills needed to distinguish between make-believe and reality. Themes and elements in this program may include mild fantasy or comedic violence, or may frighten children under the age of 7. Therefore, parents may wish to consider the suitability of this program for their very young children. Note: For those programs where fantasy violence may be more intense or more combative than other programs in this category, such programs will be designated **TV-Y7-FV**.

For programs designed for the entire audience, the general categories are:

TV-G (General Audience -- *Most parents would find this program suitable for all ages*). Although this rating does not signify a program designed specifically for children, most parents may let younger children watch this program unattended. It contains little or no violence, no strong language and little or no sexual dialogue or situations.

TV-PG (Parental Guidance Suggested -- *This program contains material that parents may find unsuitable for younger children*). Many parents may want to watch it with their younger children. The theme itself may call for parental guidance and/or the program contains one or more of the following: moderate violence (V), some sexual

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needed changes to them.²²

8. In addition, the Industry Representatives committed that the TVOMB would “review the guidelines on a regular basis and make sure that the uniformity and consistency of the guidelines [are] maintained to the greatest extent possible.”²³ The Industry Representatives also committed that “independent, scientific research and evaluation will be undertaken once the V-chip has been in the marketplace.”²⁴ The Board conducted surveys on the TV Parental Guidelines in 2011, 2014, 2016, and 2018.²⁵

9. There are up to 24 members of the TVOMB at any given time: the chairman (a position held by the head of the MPAA, NCTA, or NAB on a rotating basis), up to 18 industry representatives from the broadcast, cable and creative communities, and five non-profit members.²⁶ Board members from the industry are appointed by NAB, NCTA, and MPAA, and non-industry members are appointed by the Board chairman.²⁷ The Board meets annually, or more often if necessary, to consider and review complaints sent to the Board, discuss current research, and review any other relevant issues.²⁸ The Board also “facilitates regular calls among industry standards and practices executives to discuss pending and emerging issues in order to promote ratings consistency across companies.”²⁹

10. The TVOMB website provides an email address for the public to submit questions and complaints about TV ratings.³⁰ According to the Industry Representatives, the Board’s practice is to “acknowledge” complaints about the ratings as they are received and to then forward the complaint to the network on which the program aired for further review.³¹ If the Board receives multiple complaints about a program, the “executive secretariat flags the issue for NAB, NCTA, and MPAA and discussions take place to determine if further action is needed at that time.”³² The Industry Representatives explain that “outreach to the program’s distributor might occur to highlight the complaints and suggest review” and other industry parties might be contacted to ask if the rating is similar to their own rating on similar programs.³³ The Industry Representatives further explain that, in some instances, these discussions have

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situations (S), infrequent coarse language (L), or some suggestive dialogue (D).

TV-14 (Parents Strongly Cautioned -- *This program contains some material that many parents would find unsuitable for children under 14 years of age*). Parents are strongly urged to exercise greater care in monitoring this program and are cautioned against letting children under the age of 14 watch unattended. This program contains one or more of the following: intense violence (V), intense sexual situations (S), strong coarse language (L), or intensely suggestive dialogue (D).

TV-MA (Mature Audience Only -- *This program is specifically designed to be viewed by adults and therefore may be unsuitable for children under 17*). This program contains one or more of the following: graphic violence (V), explicit sexual activity (S), or crude indecent language (L).¹⁶

Implementation Order, 13 FCC Rcd at 8235, para. 7. While the TV Parental Guidelines were modeled after familiar movie ratings to make them more recognizable, see <http://www.tvguidelines.org>, the rating system used by the film industry is different from the TV Parental Guidelines. The current Motion Picture Association of America (MPAA) film ratings are: G (general audiences - all ages admitted); PG (parental guidance suggested - some material may not be suitable for children); PG-13 (parents strongly cautioned - some material may be inappropriate for children under 13); R (restricted - under 17 requires accompanying parent or adult guardian); and NC-17 (no one 17 and under admitted). The V-chip uses both rating scales simultaneously when filtering content. See *Implementation of the Child Safe Viewing Act: Examination of Parental Control Technologies for Video or Audio Programming*, Report, 24 FCC Rcd 11413, 11419-20, para. 13 (2009) (*CSVA Report*).

¹⁶ See TV Parental Guidelines Monitoring Board, *Ratings*, <http://www.tvguidelines.org/ratings.html> (last visited April 29, 2019). The ratings also appear on broadcast and cable network programs provided via satellite television. Some online video programming distributors also voluntarily include ratings on programming available on the Internet.

¹⁷ See Industry Representatives Comments at 9.

resulted in changes being made to a rating.³⁴

11. According to the Industry Representatives, if complaints continue to be received and “it is clear that there is widespread concern”³⁵ about a program’s rating, the Board chairman will determine if the issue(s) raised in the complaints should be brought before the Board for adjudication.³⁶ In that event, the chairman will call a meeting to review the rating, and the network on which the program aired will be given an opportunity to explain the reason for the program’s rating.³⁷ If the majority of those present and voting determine the program is incorrectly rated, the chairman will communicate that decision to the program’s producer or network.³⁸ If the producer or network agrees with the Board’s decision and agrees to change the rating on future airings, the issue is concluded.³⁹ However, the Board will make its views public if the distributor or network believes the Board’s decision is in error and decides not to change the rating.⁴⁰

12. *Public Notice.* In order to respond to Congress’s directive in the Act, the Media Bureau sought comment in the *Public Notice* on the accuracy of the ratings being applied to television programming.⁴¹ We asked if programs with violent, sexual, or other content that may be inappropriate for children are being rated accurately and whether both the age and content-based ratings are being correctly applied.⁴² We also invited comment on whether the ratings are being applied consistently, or whether programming with similar content is being rated differently.⁴³ In addition, we sought comment on the ability of the Board to address public concerns, including on whether it had taken steps to respond to concerns raised about the accuracy of ratings being applied to television programming.⁴⁴ We also asked whether the Board responds to comments and, if so, in what way.⁴⁵

III. DISCUSSION

13. As directed by Congress, we address below comments in this proceeding related to two specific aspects of the TV Parental Guidelines: (1) the accuracy of the television content ratings and (2) the ability of the TVOMB to oversee the ratings and address public concerns.⁴⁶ In addition, we offer

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¹⁸ See Industry Representatives Comments at 9. See also <http://www.tvguidelines.org>.

¹⁹ See Industry Representatives Comments at 9.

²⁰ See *supra* note 5.

²¹ Industry Representatives January 17, 1997 Letter at 3.

²² Industry Representatives January 17, 1997 Letter at 4. In its acceptance of the Industry Representatives’ proposed rating system, the Commission noted these commitments made by the Board. See *Implementation Order*, 13 FCC Rcd at 8243, para. 22.

²³ Industry Representatives January 17, 1997 Letter at 7.

²⁴ Letter from Jack Valenti, President and CEO, MPAA, Decker Anstrom, President and CEO, NCTA, and Eddie Fritts, President and CEO, NAB, to William F. Caton, Secretary, FCC, CS Docket No. 97-55, at 6 (filed August 1, 1997) (Agreement on Modifications to the TV Parental Guidelines, July 10, 1997, Research and Evaluation), <https://ecfsapi.fcc.gov/file/2028840002.pdf>.

²⁵ See TV Parental Guidelines Monitoring Board, *News and Resources*, <http://www.tvguidelines.org/newsResources.html> (last visited April 19, 2019).

²⁶ See Industry Representatives Comments at 11, TV Parental Guidelines Monitoring Board, *About Us*, <http://www.tvguidelines.org/aboutUs.html> (last visited April 19, 2019). See also *Implementation Order*, 13 FCC Rcd at 8243, para. 23. The Board’s chairman is currently Michael Powell, President and CEO of NCTA. Other members of the current Board are representatives from the following companies and organizations: 21st Century FOX, ABC, A+E Networks, AMC Networks, American Academy of Pediatrics, Boys and Girls Clubs of America, Call for Action, CBS, Discovery, Inc., Entertainment Industries Council, HULU, Lifetime Networks, National PTA, NBC Universal, Sony Pictures Entertainment, Turner Broadcasting System, Univision, and Viacom Media

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suggestions to the Board and the video programming industry on ways to improve the accessibility and transparency of the Board as well as the application of ratings.⁴⁷ As a preliminary matter, we note that nearly all of the commenters voice concern or dissatisfaction with some aspect of the TV Parental Guidelines, the oversight of the television ratings, and/or the content of television programming,⁴⁸ whereas the Industry Representatives assert that the rating system is effective and the TVOMB provides meaningful oversight.⁴⁹

A. Accuracy of The Ratings Being Applied to Television Programming

14. The Act directs the Commission to report to Congress on “the extent to which the rating system matches the video content that is being shown.”⁵⁰ Concerns about the accuracy of the TV Parental Guidelines are not new. As we indicated in the *Public Notice*, commenters in previous Commission proceedings have argued that the TV Parental Guidelines are applied inaccurately and inconsistently to television programming.⁵¹ More recently, PTC asserted that the content ratings in television programs are “often misleading, or outright deceptive”⁵² and, in particular, that television programs with graphic violence and gun violence are too often rated as appropriate for children.⁵³ As explained below, the record gives us reason to believe that a better job could be done aligning the rating system with the video content being shown in at least some instances. However, given only 90 days to complete this Report, we cannot reach any definitive or specific conclusions regarding “the extent to which the rating system matches the video content that is being shown.”

15. Numerous commenters contend that the TV Parental Guidelines are not applied accurately to television programming. For example, Concerned Women for America (CWA) argues that graphic sexual scenes, violence, and other mature content are “routinely” rated as appropriate for children.⁵⁴ One program that PTC argues has been rated incorrectly is “Dating Naked,” rated either TV-PG or TV-14 according to PTC, in which all participants are nude throughout each episode (but with genital areas blurred).⁵⁵ According to PTC, when it raised concerns about this program’s rating with an

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Networks. See TV Parental Guidelines Monitoring Board, *About Us*, <http://www.tvguidelines.org/aboutUs.html> (last visited April 29, 2019); Industry Representatives Comments at 11-12. Cogent Strategies serves as the executive secretariat of the Board. See Industry Representatives Comments at 12, note 20.

²⁷ See Letter from Rick Kaplan, General Counsel and Executive Vice President, Legal and Regulatory Affairs, NAB, Rick Chessen, Senior Vice President Legal and Regulatory Affairs and Chief Legal Officer, NCTA, and Neil Fried, Senior Vice President, Congressional and Regulatory Policy & Senior Counsel, MPAA, to Marlene H. Dortch, at 1 (filed April 16, 2019) (Industry Representatives April 16, 2019 Letter).

²⁸ See TV Parental Guidelines Monitoring Board, *About Us*, <http://www.tvguidelines.org/aboutUs.html> (last visited April 19, 2019); Industry Comments at 12.

²⁹ TV Parental Guidelines Monitoring Board, *About Us*, <http://www.tvguidelines.org/aboutUs.html> (last visited April 19, 2019).

³⁰ See TV Parental Guidelines Monitoring Board, *Contact Us*, <http://www.tvguidelines.org/contactUs.html> (last visited April 19, 2019). The email address for questions or complaints is TVOMB@tvguidelines.org. The Board’s website was recently updated and, according to the Industry Representatives, the website will soon be available in both English and Spanish. See Industry Representatives Comments at 11.

³¹ Industry Representatives April 16, 2019 Letter at 1.

³² *Id.*

³³ *Id.*

³⁴ *Id.* at 2.

³⁵ *Id.*

executive from the network that produces the program, the executive responded that “the program is about ‘relationships’ and was rated correctly.”⁵⁶ PTC also cites a survey it conducted of original prime-time broadcast programming aired during a one-month period in 2017, and reports that almost a quarter of the programs aired during the period that contained violence did not contain the “V” (violence) content descriptor.⁵⁷ In its comments, PTC provides a list of explicit sexual or violent content in programs that it alleges were inappropriately rated either TV-PG or TV-14 and is “reflective of programming that airs daily, yet is routinely rated” as appropriate for children.⁵⁸ PTC contends that these examples show that “[e]ither the TV networks are improperly applying the content ratings in accordance with the guidelines adopted for each age” rating, or “the guidelines applied to each age rating are wildly out of line compared to contemporary standards that most parents would find acceptable for a PG or 14 content rating.”⁵⁹

16. Other commenters also cite examples of programs or types of program content that they believe are inappropriately rated as suitable for children as young as 14.⁶⁰ According to Melissa Henson, who works for the PTC, PG-rated programming is becoming “more edgy” and less suitable for family viewing, and the “over-broad” TV-14 rating is being “applied to everything from the relatively mild innuendo on ‘The Big Bang Theory’ to the graphic violence on ‘Hannibal’ and ‘The Walking Dead’ to the nudity and sexual situations on ‘Dating Naked.’”^{61 6263}

17. A number of commenters also maintain that ratings are applied in an inconsistent manner. According to some commenters, different networks will sometimes rate the same program differently.⁶⁴ According to PTC, for example, the program “Medium” was rated TV-PG on CBS and TV-14 on NBC.⁶⁵ Henson reports that she saw the same episode of a program given one rating when it was originally broadcast and another rating when it appeared in syndication.⁶⁶ Media Researchers also point to studies contending that ratings are also subject to a lack of “temporal consistency”—that is, the studies demonstrate a shift over time for more mature content to receive lower age-based ratings (referred to as “ratings creep”).⁶⁷

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³⁶ *Id.* See also TV Parental Guidelines Monitoring Board, *Contact Us*, <http://www.tvguidelines.org/contactUs.html> (last visited April 19, 2019).

³⁷ See Industry Representatives April 16, 2019 Letter at 2, note 5.

³⁸ *Id.*

³⁹ *Id.*

⁴⁰ *Id.* Industry Representatives do not provide examples of this occurring.

⁴¹ See *Public Notice* at para. 6.

⁴² *Id.*

⁴³ *Id.*

⁴⁴ *Id.* at para. 9.

⁴⁵ *Id.*

⁴⁶ See *supra* para. 1 and n. 2.

⁴⁷ We note, however, Industry Representatives’ stance that beyond issuing this Report the Commission’s authority to act with respect to the TV guidelines is “highly circumscribed” and greater government involvement in rating television programming would “necessarily raise significant First Amendment questions.” Industry Representatives Comments at 2. See also Industry Representatives Reply Comments at 7-9.

⁴⁸ See, e.g., PTC Comments at 2 (“the PTC has gathered data that has empirically proven the TV Content Rating System routinely to be inaccurate and inconsistent”); Focus on Family Comments at 2 (the system has “significant problems”); NRB Comments at 2 (“hazardous content appears to be rated incorrectly, inconsistently, and in a

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18. A number of commenters suggest that one underlying cause of ratings inaccuracy and inconsistency is that creators of content are responsible for rating their own programs.⁶⁸ These commenters contend generally that program networks face an inherent conflict of interest in applying the ratings. They assert that many sponsors of television programming will not advertise on programs rated TV-MA (mature audiences only), and that therefore the networks have an incentive to apply a more lenient rating to programs than they may warrant in order to increase the advertising revenue generated by the program.⁶⁹

19. The record also suggests that public concern about the accuracy of ratings may stem from a lack of understanding or education about the system. Campaign for a Commercial-Free Childhood (CCFC) states that the current ratings system “is neither easy-to-understand or trustworthy.”⁷⁰ CCFC points to a 2007 survey of 1,000 parents, conducted by the Kaiser Family Foundation, that showed that most parents do not understand the TV ratings system: “Most parents say they’ve heard of the TV ratings (81%) and the V-chip (70%, up from 63% two years earlier). But even among those who say they’ve heard of the ratings, most don’t understand what they mean.”⁷¹ Other commenters agree that academic research shows that most parents do not understand the TV rating system and that few use the V-chip.⁷² PTC and Cantor assert that the public does not understand what the content descriptors mean.⁷³ According to CCFC, other studies and experts also conclude that the TV ratings system is ineffective and little help to parents.⁷⁴

20. In contrast, the Industry Representatives argue that parents express high levels of satisfaction with the accuracy of TV ratings.⁷⁵ According to the Industry Representatives, an online survey conducted in 2018 on behalf of the TVOMB showed that 94% of parents were satisfied with the accuracy of the TV Parental Guidelines; two-thirds said they had not seen any shows in the past several months that they felt were rated inaccurately; and only 14% said they had seen an inaccurate rating frequently.⁷⁶ The Industry Representatives also state that most of the parents who recall seeing inaccurate ratings still have a favorable view of the TV rating system.⁷⁷ According to these commenters, these

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manner that seems to concerned parties to lack transparency and accountability”); Christine Barnes Comments at 1 (“The rating system used is flawed and it is hard to ensure our children are not watching shows filled with violence, sex and terrible language and adult situations. We have done a terrible job of protecting our children and the violence and shootings in our schools and public places are proof we have failed.”); Mr. and Mrs. Bob O’Campo Comments at 1 (“Graphic sex, violence and profanity is routinely rated as appropriate for children as young as 14, and even younger.”); Sheryl Mickens Comments at 1 (“Most of the people that sit on the oversight board work in the entertainment industry have extreme views and are not conservative in their values.”); CWA Comments at 1 (“TV is more dangerous for families today than it was before this system was devised”); Mike Breard Comments at 1 (“Please change this system to one that would be more reflective of traditional family values.”). Some of the comments raise issues that are beyond the scope of this proceeding, such as comments suggesting that the Commission adopt changes to the current rating system, expressing concern about programming content generally, or discussing the impact of certain types of content on children. *See, e.g.*, Media Researcher Comments at 1-3, Concerned Women of America (CWA) Comments at 2; TW Smith Comments at 1; Concerned Women of America (CWA) Comments at 2 (urging the Commission to “revise” the rating system and the TVOMB). *See also* Letter from James Lankford, U.S. Senator for Oklahoma, to Ajit Pai, Chairman, FCC, dated March 12, 2018 (Lankford Letter), at 2 (noting that commercial content can include violent or sexual content and asking the Commission to consider whether commercials should match the rating of the program they interrupt). The Parents Television Council (PTC) acknowledges that the “narrow scope” of the review Congress directed the Commission to undertake prevents the Commission from “implementing any improvements to the current system.” PTC Reply Comments at 3.

⁴⁹ The Industry Representatives contend that the current rating system provides “an accurate and reliable tool for parents to use in making decisions about their children’s television viewing.” Industry Representatives Comments at 13 and Industry Representatives Reply Comments at 9.

⁵⁰ *See supra* n. 2.

survey findings are consistent with earlier surveys conducted by the TVOMB.⁷⁸

21. The Industry Representatives also explain that an individual network's standards and practices division has final authority on the assignment of ratings and may consult with standards and practices executives in other networks to ensure consistency in applying ratings across networks.⁷⁹ These commenters claim that, in recent years, the Board has "redoubled its efforts to ensure ratings are applied consistently across channels."⁸⁰ They say that standards and practices executives have attended regular meetings and participated in periodic calls to review ratings issues.⁸¹ According to these commenters, the result has been "a more common and consistent understanding" of how ratings should be applied.⁸² Industry Representatives further note that "rating programs is not an 'objective' science" and that ratings necessarily reflect "editorial judgement" based on multiple factors.⁸³

22. With respect the consistency of TV ratings, the Industry Representatives contend that, since each episode of a television series is rated separately, individual episodes may be rated differently based on the theme and specific content of the episode.⁸⁴ In addition, each episode may be edited differently when aired on a different network based on various factors, including the target audience of the network and time of day when the program airs.⁸⁵ Individual shows may also be edited and rated differently depending on whether they are carried on premium cable, basic cable, or a broadcast service.⁸⁶

23. Finally, the Industry Representatives contend that, in the years since the rating system was adopted, the television industry has invested substantial resources in educating parents about the TV Parental Guidelines and the V-chip.⁸⁷ In 2006, the industry launched a multi-year advertising campaign to encourage parents to take a more active role in their children's television viewing and help educate parents about the ratings and the V-chip.⁸⁸ According to the Industry Representatives, these education efforts have been ongoing and the industry "regularly reinvigorates" its education efforts.⁸⁹

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⁵¹ See *Public Notice* at para. 5 (citing the *CSVA Report*, 24 FCC Rcd at 11425-26, para. 27).

⁵² See Letter from Timothy F. Winter, President, PTC, to Ajit Pai, Chairman, FCC, dated February 12, 2019 (PTC Letter), at 2.

⁵³ *Id.*

⁵⁴ CWA Comments at 1.

⁵⁵ PTC Comments at 2-3.

⁵⁶ *Id.* at 4.

⁵⁷ See PTC Mini-Study at 7. In particular, PTC asserts that episodes of the CBS programs "Seal Team," "Swat," "NCIS: Los Angeles," and "Scorpion" and of the CW programs "Supernatural," "Arrow," "DC's Legends of Tomorrow," and "The Flash" contained scenes of gun violence against people and/or multiple scenes of gun violence and did not use a "V" content descriptor in the program rating. *Id.* In addition, according to a group of 28 media and child development researchers who filed jointly (Media Researchers), studies have demonstrated that the current ratings system either inaccurately labels content known to be harmful or rates content in a manner that is inconsistent with parents' expectation of the rating that should be applied. Douglas A. Gentile Comments at 2 (Media Researchers Comments). We note, however, that the studies these commenters cite are from 2001 and thus nearly two decades old. *Id.*

⁵⁸ See PTC Comments at 2.

⁵⁹ *Id.* at 3. PTC asserts that these inaccuracies have led to consumer dissatisfaction with the ratings system. *Id.* at 5.

⁶⁰ See, e.g., Archie and Brenda Cumbee Comments (arguing that the MTV program "Ex On The Beach" was given a TV-14 rating when it should have received a TV-MA rating); Frank Potts Comments (opposing the repeated use of the word "F***" in shows rated TV-14); Diane Paul Comments (asserting that a TV-14 rated program inappropriately contained "full frontal female nudity" and "graphic sex scenes").

24. Congress also has asked the Commission to examine “the ability of the [TVOMB] to address public concerns.”⁹⁰ As explained below, the record suggests that the Board could address public concerns better if it were more proactive in informing the public of its role and more transparent in its processes.

25. A number of commenters raise concerns about the TVOMB’s process for collecting and responding to complaints about TV ratings.⁹¹ For example, PTC states that, while its efforts to have a rating changed were successful on three occasions, “most of the time” its efforts have received no response.⁹² It is unclear from PTC’s comments whether it communicated its concerns to the TVOMB itself in all instances, or directly to the network responsible for the program, or both.⁹³ Other commenters state that they either do not know where to send complaints or were unsuccessful in getting a response to a complaint.⁹⁴ In this vein, several commenters argue that many parents are unaware of the existence of the TVOMB or its website⁹⁵ and are unaware that “it is up to them to offer any complaint if they feel a content rating is inaccurate.”⁹⁶ Commenters aver that, because of the lack of public awareness of the Board and the role it plays with respect to TV ratings, complaints are often misdirected and are more likely to be filed with TV stations, networks, the Commission, or even advocacy groups, than with the TVOMB.⁹⁷ However, commenters concede that many of the complaints the Board receives may not relate to ratings accuracy or consistency, but rather to the content of the programming being aired, and thus remain unaddressed because they do not fall within the TVOMB’s specific purview.⁹⁸

26. Commenters also advocate for more transparency with respect to the TVOMB and its process for overseeing the application of the TV ratings and responding to complaints. For example, Kovel contends that the Board does not make available to the public information regarding who filed a complaint, what show and network were involved, or what resulted from any Board deliberations about the complaint.⁹⁹ CWA maintains that there is no public record of Board meetings or what is discussed.¹⁰⁰ PTC states that, other than a meeting in 2014, it is unaware of the TVOMB “ever having actually met” and that its “sources suggest no such meetings” have otherwise taken place.¹⁰¹ PTC argues that, among

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⁶¹ Henson Comments at 1. Henson also asserts that most episodes of ABC’s “The Muppets,” rated as TV-PG, contain references to drug and alcohol as well as sexual innuendo or anatomical references that she believes are not appropriate for children. *Id.*

⁶² PTC Comments at 2-3.

⁶³ *Id.* at 4.

⁶⁴ *See, e.g.*, CWA Comments at 1; PTC Comments at 3; and Adriana Mayor Comments at 1 (complaining that the rating is different depending on the network that airs it). *See also* Shannon Dalessio Comments at 1 (asserting the TV ratings system is “inconsistent and unpredictable”).

⁶⁵ *See* PTC Comments at 3.

⁶⁶ *See* Henson Comments at 1.

⁶⁷ Media Researchers Comments at 2, 3. According to Media Researchers, these studies from 2008 and 2014 also show that ratings creep may affect the individuals responsible for assigning ratings to programs, who may increasingly apply more lenient ratings after viewing more programs with violent and sexual content. *Id.* (“the more violent and sexual videos [those who assign ratings] see, the more lenient the ratings they assign”). With regard to ratings consistency, one commenter also expressed concern that ratings that appear on Internet programming are not consistent with the rating applied to broadcast programming. *See* Kelly Oliver Comments at 1 (stating that “Trolls Holiday” was rated TV-PG on broadcast television and TV-G on Netflix). Both industry representatives and non-industry commenters point out that children are increasingly viewing television content on the Internet. *See* PTC Comments at 6 (“Netflix, Amazon, Prime, Hulu, Apple TV, Roku, and host of other OTT services will also need a robust and dependable content rating system so that parents can more effectively control the media consumption of their children.”); Focus on Family Comments at 1 (noting that Netflix alone aired some 700 original shows in 2018); and Industry Representatives Comments at 5 (citing a study that showed that, in 2018, online video streaming

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other information about the Board, it does not know the qualifications of members of the Board, their tenure, who appoints them, how their effectiveness is judged, and how they are replaced.¹⁰² PTC and CWA also allege that the press is not allowed to be present at Board meetings¹⁰³ and that meetings are not open to the public.¹⁰⁴

27. In addition, several commenters raise concerns about the structure and membership of the TVOMB, claiming that the Board's composition is not conducive to addressing viewer complaints and concerns about ratings adequately. Some note that the majority of the 24-member Board is comprised of representatives from the video programming industry and that the five other members are selected by the Board chairman.¹⁰⁵ They assert generally that, because the Board is heavily weighted in favor of the industry, complaints directed to the Board are unlikely to result in changes being made to the ratings. CCFC, Cantor, and Timmer also raise concerns about the composition of the TVOMB, contending that the Board should include more independent experts on child development,¹⁰⁶ the effect of media on children,¹⁰⁷ and/or other public health professionals, social scientists, and parents.¹⁰⁸

28. The Industry Representatives explain that the TVOMB has an established process for adding non-industry members to the Board. The process includes first "identifying and vetting organizations that may have an interest in the work of the Monitoring Board."¹⁰⁹ After receiving input from members of the board, and "discussion among the trade associations and the executive secretariat," the Board sends a list of recommendations to the TVOMB's chairman for final appointment.¹¹⁰ The Industry Representatives dispute criticism of the TVOMB's membership, commenting that the members "represent a cross-section of organizations that deal with parents and children, consumers and media."¹¹¹

29. Finally, some commenters suggest that the TVOMB is ill-equipped to ensure that programs are rated consistently. According to Focus on the Family, because the TVOMB does not watch and rate every program, unlike the MPAA which rates all theatrically released movies, it "seems wildly implausible" that the TVOMB can accomplish its objective of ensuring uniformity and consistency in

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displaced traditional broadcast and cable programming as the number one source of television programming for children and families). A number of commenters call for ratings to be applied to Internet programming. See PTC Comments at 6. See also Mel Smeenge Comments at 1 and Kelly Oliver Comments at 1. According to CCFC, content on YouTube, "the number one online destination for children," is not rated. CCFC Comments at 1. As noted above, the ratings are now voluntarily applied only to some programming distributed on the Internet. See *supra* note [16].

⁶⁸ See, e.g., PTC Comments at 3; CWA Comments at 1; Focus on Family Comments at 1; Cantor Comments at 1. See also PTC Letter at 3.

⁶⁹ See PTC Comments at 3. See also CWA Comments at 1-2; Focus on Family Comments at 1.

⁷⁰ CCFC Comments at 1.

⁷¹ *Id.* (quoting Victoria Rideout, Kaiser Family Foundation, Parents, Children & Media, A Kaiser Family Foundation Survey at 8 (2007), <https://files.eric.ed.gov/fulltext/ED542901.pdf> (*Kaiser Survey*)). For example, the survey reports that "with regard to the ratings for young children's programs, only three in ten parents (30%) with children ages 2-6 can name any of the ratings used for children's shows (including TV-G, or G, which means 'general audience'; the children's show ratings are TV-Y or TV-Y7, which were mentioned by just 11% of parents of children in this age group). Only 11% know that the rating FV has anything to do with violence (it stands for 'fantasy violence' in children's shows), while 9% say they think it means 'family viewing.' And only 11% know that the rating EI means educational or informational programming." *Kaiser Survey* at 8.

⁷² See, e.g., Cantor Comments at 1 and Bushman et al. Comments at 27. See also Joel Timmer, *Television Violence and Industry Self-Regulation: The V-Chip, Television Program Ratings, and the TV Parental Guidelines Oversight Monitoring Board*, 18 Comm. L & Pol'y 265, 291-92 (2013) (Timmer Study). A copy of the study was filed as part of the Timmer comments.

⁷³ See Cantor Comments at 1 and PTC Reply Comments at 2.

applying the TV Parental Guidelines.¹¹² This commenter also contends that the TVOMB's ability to accomplish its task of overseeing the guidelines is made more difficult by the vast increase in the quantity of television programming since the guidelines were introduced.¹¹³

30. On the other hand, the Industry Representatives assert that the TV Parental Guidelines provide "an accurate and reliable tool for parents" and that the TVOMB "plays a valuable role in administering the ratings."¹¹⁴ They state that, since the creation of the TV Parental Guidelines, the TVOMB has received "widespread and verifiable complaints about a particular show's rating" about only a "handful" of programs.¹¹⁵ For example, they explain that, in the past decade, the Board has received, on average, no more than 47 complaints per year¹¹⁶ and, in 2018, the Board received 26 complaints about ratings involving 20 programs.¹¹⁷ According to the Industry Representatives, the Board investigated complaints and, "where necessary, worked with the producer or network to amend the rating."¹¹⁸ These commenters point out that the number of complaints received by the Board is small compared to the overall amount of television programming aired¹¹⁹ and that the Board's survey results and the relatively small number of complaints received demonstrate that the rating system is maintaining a "high level of accuracy and consumer satisfaction."¹²⁰ Overall, according to Industry Representatives, there is no basis for concern that the Board is doing an inadequate job carrying out its functions nor any need to change its structure or processes for addressing public concerns.

C. Suggestions for Improvements to the Board and the Ratings Process

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⁷⁴ See CCFC Comments at 1.

⁷⁵ See Industry Representatives Comments at 3. PTC challenges the reliability of the Board's survey data. See *infra* note 76.

⁷⁶ *Id.* The study, conducted by Hart Research Associates, surveyed 1,018 parents of children ages two to 17 years old in households with at least one television. See Hart Research Associates, Key Findings from 2018 TV Ratings Research Among Parents at 1 (2018), <http://www.tvguidelines.org/resources/2018KeyFindings.pdf>.

⁷⁷ Industry Representatives Comments at 3-4.

⁷⁸ *Id.* at 4 and note 6. According to the Industry Representatives, a survey conducted by the Board in 2016 showed that 96% of parents said they were satisfied with the accuracy of ratings for TV shows. *Id.* Although 35% of parents said they could recall seeing a show they thought might have been inaccurately rated, among that group, 76% viewed the rating system favorably and 91% reported being very or somewhat satisfied with the accuracy of ratings in general. *Id.* The Board also conducted surveys in 2014 and 2011 that they claim showed generally that parents had a favorable impression of the ratings and found them helpful. *Id.* The results of the surveys conducted for the TVOMB are available at <http://www.tvguidelines.org/newsResources.html>.

⁷⁹ See Industry Representatives Comments at 9.

⁸⁰ Industry Representatives Comments at 12.

⁸¹ *Id.*

⁸² *Id.*

⁸³ Industry Representatives Reply Comments at 4.

⁸⁴ See Industry Representatives Reply Comments at 5.

⁸⁵ *Id.*

⁸⁶ *Id.*

⁸⁷ See Industry Representatives Comments at 11.

⁸⁸ *Id.*

⁸⁹ *Id.*

31. After reviewing the record as a whole, our primary conclusion is that the Board has been insufficiently accessible and transparent to the public. For example, when the Bureau began its work on this report, the Board's website did not even include a phone number that someone could call to reach it. We are pleased that this problem was recently fixed. But in our view, additional steps should be taken to increase awareness of the Board's role and the transparency of its operations. Below are suggestions along those lines that we submit for Board and industry consideration.

32. First, we urge the Board and the video programming industry to increase their efforts to promote public awareness of the Board and its role in overseeing the rating system. We urge the Board and the industry to increase their outreach efforts concerning the existence of the rating system and consider additional ways in which they can publicize the ability of the public to file complaints, along with instructions on how complaints can be filed. In this regard, as noted, the Board recently reactivated a telephone number for use in contacting the Board and also provides a post office box where physical mail can be sent.¹²¹

33. Second, we suggest that the Board consider ways to inform the public regarding the number of complaints it receives, the nature of each complaint, the program and network or producer involved, and the action taken, if any, by the network/producer or the Board in response to the complaint.

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⁹⁰ See *supra* n. 2.

⁹¹ See, e.g., PTC Reply Comments at 2 (noting that any public comments must be made by contacting an organization - TVOMB – “that most Americans have never heard of”); Timmer Study at 298 (noting that the Board has been criticized for failing to take action on many complaints and acting on them without input from the public).

⁹² PTC Comments at 4. The three instances in which PTC states that its efforts resulted in a change to the ratings are: “Walking Dead,” in which the rating was “increased from TV-14 to TV-MA; an episode of the *Oprah Winfrey Show* featuring instructional use of sex vibrators,” which received an initial rating of TV-14 but was changed to TV-MA for repeat broadcasts; and a change in the rating of an unedited version of the film *Pulp Fiction* after the cable network acknowledged it was incorrectly rated TV-14. *Id.*

⁹³ PTC also states that, on a separate occasion when it asked a member of the TVOMB why a program with what PTC considers mature content received a rating of TV-14 instead of TV-MA, the Board member “replied simply that the Board had determined that the TV-14 rating was appropriate and that the system is subjective.” PTC Comments at 4.

⁹⁴ See, e.g., Shire Comments at 1 (stating that the commenter was unable to find information on how to lodge a complaint regarding a commercial aired during an episode of “Leave it to Beaver” that the commenter thought was inappropriate); Karen Grube Comments at 1 (stating that the commenter contacted several networks directly to complain about advertisements that aired during early evening viewing hours that she believes contained content inappropriate for children but received no response); Kovel Comments at 3-4 and Reply Comments at 1 (stating that the TVOMB did not respond to his complaint and that it was difficult to find information about the Board online and to determine how to contact it); and Christopher Gildemeister Comments at 1 (asserting that there is “no way” for members of the public to contact the TVOMB).

⁹⁵ See PTC Comments at 4 and PTC Reply Comments at 2. See also CWA Comments at 2 (“[m]ost parents do not have any idea that [TVOMB] even exists”); Timmer Study at 280 (citing a commenter in the CSVA Report proceeding who argued that “most parents are not aware that the Oversight Monitoring Board exists, much less that they can file complaints with it regarding the program rating system”). PTC also argues that, for at least one year, the public was unable to communicate with the TVOMB because of a change in the organization (executive secretariat) that handles incoming communications from the public. See PTC Comments at 5. PTC states that it received messages from members of the public who were “frustrated by the process.” *Id.* The Industry Representatives reply that the change in the executive secretariat “did not result in a lapse ‘of at least one year...’ in the ability of viewers to communicate with the Board.” Industry Representatives Reply Comments at 7, n. 29.

⁹⁶ PTC Comments at 4.

For instance, the Board could consider issuing an annual report on the complaints it has received about the ratings of programs, how those complaints were adjudicated, and whether complaints led to the rating of a program being changed in future airings.

34. Third, we suggest that the Board hold at least one public meeting, that is publicized with adequate notice, each year. This would permit the public to express their views directly to the Board and help the Board better understand public concerns regarding program ratings.

35. With respect to the accuracy of the ratings being applied pursuant to the TV Parental Guidelines, we are unable to draw any definitive conclusions in the limited time we have been given to prepare this Report. We do believe, however, that sufficient concerns have been expressed in the record to merit additional Board action to analyze the accuracy of ratings. As a result, we suggest that the Board consider doing random audits or spot checks analyzing the accuracy and consistency of the ratings being applied pursuant to the TV Parental Guidelines. This information could be used, in addition to the survey data already collected by the Board, to help assess, and if necessary, improve ratings accuracy. Such information would also allow the Board and the industry to consider whether any changes are needed to the guidelines themselves to ensure that they are as helpful as possible to today's viewers, consistent with the Board's commitment.¹²² In this regard, we note the ratings system has not changed in over 20 years

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⁹⁷ See Timmer Study at 306. A number of comments filed by individual viewers reinforce that there is confusion in the general public regarding the existence of and role played by the TVOMB in overseeing ratings and addressing ratings complaints. See e.g., Judy Mahaney Comments at 1 ("I am not happy with whoever decides what a show should be rated. Who is in charge of that function?"); Lindsey Basye Comments at 1 ("I do not rely on the FCC ratings & if parents can't rely on that, what is the point of having an FCC?").

⁹⁸ See Timmer Study at 305.

⁹⁹ See Kovel Reply Comments at 1-2.

¹⁰⁰ See CWA Comments at 2.

¹⁰¹ PTC Comments at 5. According to Timmer, some sources report that the Board did not meet regularly for several years. See Timmer Study at 304.

¹⁰² See PTC Comments at 5.

¹⁰³ See CWA Comments at 2; PTC Comments at 4. PTC also notes that the Board would not allow the PTC

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and, despite its longevity, many commenters contend that the rating system is not well-understood or useful to parents.

IV. CONCLUSION

36. The record before us suggests that the TVOMB could better serve viewers if it were more accessible and transparent. Indeed, greater transparency would make it easier to assess whether ratings are being accurately and consistently applied and could reduce criticism that certain commenters in this proceeding levy against the TVOMB.

FEDERAL COMMUNICATIONS COMMISSION

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President to invite a representative from the FCC to attend a Board meeting. PTC Comments at 4.

¹⁰⁴ PTC Comments at 5.

¹⁰⁵ See, e.g., PTC Comments at 4-5; CWA Comments at 2. See also Timmer Study at 298.

¹⁰⁶ See CCFC Comments at 1; Cantor Comments at 1; Timmer Comments at 1.

¹⁰⁷ See CCFC Comments at 1; Cantor Comments at 1.

¹⁰⁸ See Timmer Comments at 1.

¹⁰⁹ Industry Representatives April 16, 2019 Letter at 1.

¹¹⁰ *Id.*

¹¹¹ *Id.*

¹¹² Focus on the Family Comments at 1.

¹¹³ *Id.*

¹¹⁴ Industry Representatives Reply Comments at 9.

¹¹⁵ *Id.* at 12.

¹¹⁶ *Id.* at 4.

¹¹⁷ *Id.*

¹¹⁸ *Id.* at 13.

¹¹⁹ *Id.* at 6. See also Letter from Neil Fried to Marlene H. Dortch at 1 (Apr. 8, 2019).

¹²⁰ *Id.*

¹²¹ See Letter from Rick Kaplan, General Counsel and Executive Vice President, Legal and Regulatory Affairs, NAB, Rick Chessen, Senior Vice President Legal and Regulatory Affairs and Chief Legal Officer, NCTA, and Neil Fried, Senior Vice President, Congressional and Regulatory Policy & Senior Counsel, MPAA, to Marlene H. Dortch, at 1 (filed May 6, 2019).

¹²² See Industry Representatives January 17, 1997 Letter at 4.