



Federal Communications Commission
Washington, D.C. 20554

September 18, 2019

DA 19-926

Small Entity Compliance Guide

Children's Television Programming Rules

FCC 19-67
MB Docket Nos. 18-202 and 17-105
Released July 12, 2019

This Guide is prepared in accordance with the requirements of section 212 of the Small Business Regulatory Enforcement Fairness Act of 1996. It is intended to help small entities—small businesses, small organizations (non-profits), and small governmental jurisdictions—comply with the revised rules adopted in the above-referenced Federal Communications Commission (FCC or Commission) rulemaking dockets. This Guide is not intended to replace or supersede these rules, but to facilitate compliance with the rules. Although we have attempted to cover all parts of the rules that might be especially important to small entities, the coverage may not be exhaustive. This Guide cannot anticipate all situations in which the rules apply. Furthermore, the Commission retains the discretion to adopt case-by-case approaches, where appropriate, that may differ from this Guide. Any decision regarding a particular small entity will be based on the statute and any relevant rules.

In any civil or administrative action against a small entity for a violation of rules, the content of the Small Entity Compliance Guide may be considered as evidence of the reasonableness or appropriateness of proposed fines, penalties or damages. Interested parties are free to file comments regarding this Guide and the appropriateness of its application to a particular situation. The FCC will then consider whether the recommendations or interpretations in the Guide are appropriate in that situation. The FCC may decide to revise this Guide without public notice to reflect changes in the FCC's approach to implementing a rule, or it may clarify or update the text of the Guide. Direct your comments and recommendations, or calls for further assistance, to the FCC's Consumer Center:

1-888-CALL-FCC (1-888-225-5322)

TTY: 1-888-TELL-FCC (1-888-835-5322)

Videophone: 1-844-4-FCC-ASL (1-844-432-2275)

Fax: 1-866-418-0232

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I. OBJECTIVES OF THE PROCEEDING

The Commission first adopted children's television programming rules in 1991 to fulfill its role under the Children's Television Act of 1990 (CTA). Under the CTA, the Commission is required to consider the extent to which broadcast television licensees serve the educational and informational needs of children through their overall programming when reviewing television license renewals. However, the media landscape has changed significantly since those first rules were adopted. Children now have greater access to and make more use of educational and informational programs through media platforms other than traditional broadcast television. On the other hand, some children, particularly those in minority and low-income households, still rely exclusively on over-the-air broadcast television. The revisions to the children's television programming rules adopted in the *Report and Order* in MB Docket Nos. 18-202 and 17-105 will ensure that high quality educational programs remain available to all children, while also providing broadcasters additional scheduling flexibility, allowing broadcasters to offer more diverse and innovative educational programming, and relieving unnecessary burdens. These changes further the Commission's goals of modernizing media regulations and reducing outdated requirements that impede competition and innovation in the media marketplace.

II. COMPLIANCE REQUIREMENTS

The Commission has modified the requirements applicable to the "Core Programming" that must be aired by broadcast television stations to meet their children's programming obligations. Core Programming is educational and informational programming that has serving the educational and informational needs of children ages 16 and under as a significant purpose and meets certain other requirements specified in the rules.

A. Core Programming Hours (47 CFR § 73.671(c)(2))

- Broadcast stations must air their Core Programming between the hours of 6:00 a.m. and 10:00 p.m.

B. Regularly Scheduled Weekly Programming Requirement (47 CFR §§ 73.671(c)(3) & 73.671(d))

- The majority of Core Programming aired by broadcast stations must be regularly scheduled weekly programming, but stations may air a limited amount of programming that is not regularly scheduled on a weekly basis, such as educational specials and regularly scheduled non-weekly programs, and have that programming count as Core Programming. Under Category A of the safe harbor processing guidelines, broadcast stations may air up to 52 hours per year of Core Programming that is not regularly scheduled weekly programming. Under Category B of the safe harbor processing guidelines, broadcast stations may air up to 52 hours per year of Core Programming that is not regularly scheduled weekly programming and/or short-form programming.

C. Requirement that Core Programming Be At Least 30 Minutes in Length (47 CFR §§ 73.671(c)(4) & 73.671(d))

- The majority of Core Programming aired by broadcast stations must be at least 30 minutes in length, but stations may air a limited amount of short-form programming and have that programming count as Core Programming. Short-form programming is programming less than 30 minutes in length, including public service announcements and interstitials (i.e., programs of brief duration that are used as a bridge between two longer programs). Under Category B of the safe harbor processing guidelines, broadcast stations may air up to 52 hours per year of Core Programming that is not regularly scheduled weekly programming and/or short-form programming.

D. Safe Harbor Processing Guidelines (47 CFR § 73.671(d))

- The Media Bureau is authorized to approve the children’s programming portion of a broadcast television station’s license renewal application if the station demonstrates compliance with the safe harbor processing guidelines. Stations now have three options for complying with the safe harbor processing guidelines.
- *Category A* –Category A of the safe harbor processing guidelines provides broadcasters two options for demonstrating compliance:
 - *Option One* – Broadcast stations may demonstrate compliance by airing three hours per week of Core Programming (as averaged over a six-month period). All Core Programming aired under this option must be regularly scheduled weekly programming and at least 30 minutes in length.
 - *Option Two* – Broadcast stations may demonstrate compliance by airing 156 hours of Core Programming annually. At least 26 hours per quarter (104 hours annually) of this Core Programming must consist of programs that are regularly scheduled on a weekly basis and are at least 30 minutes long. The remaining 52 hours of Core Programming may be aired at any time during the year at the station’s discretion, which will provide broadcast stations greater scheduling flexibility. These 52 hours of Core Programming may include programs that are not regularly scheduled on a weekly basis, such as single episode educational specials, regularly scheduled non-weekly programs, and other non-regularly scheduled programs, and must be at least 30 minutes long. Allowing broadcast stations to air up to 52 hours of Core Programs that are not regularly scheduled weekly programs will promote innovation and diversity in educational programming for children.
- *Category B* – Under Category B, broadcasters may demonstrate compliance by airing 156 hours of Core Programming annually. At least 26 hours per quarter (104 hours annually) of this Core Programming must consist of programs that are regularly scheduled on a weekly basis and are at least 30 minutes long. The remaining 52 hours of Core Programming may be aired at any time during the year at the station’s discretion, which will give broadcast stations greater scheduling flexibility. These 52 hours of Core Programming may include programs that are not regularly scheduled on a weekly basis, such as single episode educational specials, regularly scheduled non-weekly programs, and other non-regularly scheduled programs, as well as short-form programming. Allowing broadcast stations to air up to 52 hours of Core Programs that consist of programs that are not regularly scheduled on a weekly basis and short-form programs will enable broadcasters to offer diverse and innovative educational programming.
- The key distinction between Category A and Category B is that short-form programming is permitted only under Category B.

E. Airing Core Programs on Primary and Multicast Streams (47 CFR § 73.671(d))

- Broadcast stations that multicast¹ may air up to 13 hours per quarter (52 hours annually) of regularly scheduled weekly programming on a multicast stream. All remaining Core Programming must be aired on the station’s primary stream.
- The additional processing guideline applicable to stations that multicast, which required that such stations air an additional three hours of Core Programming per week for each free 24-hour multicast stream, is eliminated.

¹ Multicasting is the process by which multiple streams of digital television programming are transmitted at the same time over a single 6 MHz broadcast channel.

F. Preemptions (47 CFR § 73.671(e))

- The “second home” policy, which required broadcast stations that preempt an episode of a Core Program for any reason other than breaking news to air the rescheduled program in a previously-selected substitute time slot or “second home” in order for the rescheduled program to count toward compliance with the processing guidelines, is eliminated. The Commission eliminated the “second home” policy because it found that this policy needlessly restricts broadcasters’ ability to reschedule Core Programming in a manner that best serves the needs of their communities.
- Under the revised preemption rules, a broadcast station that preempts an episode of a regularly scheduled weekly Core Program may air the episode at any other time during Core Programming hours within seven days before or seven days after the program was originally scheduled. Preempted programs originally scheduled to air on a station’s primary stream must be rescheduled on the primary stream and preempted programs originally scheduled to air on a multicast stream must be rescheduled on the multicast stream.
 - The broadcast station must provide an on-air notification of the schedule change during the same timeslot as the preempted episode. If a station intends to air the rescheduled episode in the seven days prior to the original air date, the station must air a notification during the preceding week’s episode of that program. If a station intends to air the rescheduled episode in the seven days following the original air date, the station must air a notification in the same timeslot in which the episode was originally scheduled. The on-air notification must include the alternate date and time when the preempted program will air.
 - Preempted Core Programs that are rescheduled in this manner will count toward a station’s total number of Core Programming hours under the processing guidelines.
- Broadcast stations will continue to be permitted to preempt a Core Program for breaking news without a requirement to reschedule the Core Program.
- A broadcast station may preempt an episode of regularly scheduled weekly Core Program without rescheduling the episode and still have the episode count toward the station’s Core Programming obligations if the preempting program is a non-regularly scheduled live program produced locally by the station. Examples of “non-regularly scheduled live programming” include but are not limited to non-breaking live news, such as coverage of an elected official swearing-in ceremony, public affairs specials on issues of interest to the local community, live coverage of a local parade, a local election debate, or live coverage of a local sports team’s playoff or championship game. The preempting program must also be produced locally by the station to serve the community where the station is located.
- Network stations seeking preemption flexibility are no longer required to file an annual request for such flexibility.

G. On-Air Notification Requirement (47 CFR § 73.671(c)(5))

- Noncommercial broadcast stations are no longer required to identify Core Programs by displaying the “E/I” symbol at the beginning and throughout the program. However, commercial broadcast stations are still required to display the “E/I” symbol at the beginning and throughout all Core Programs.

H. Program Guide Requirements (47 CFR §§ 73.671(c)(7), 73.673)

- Broadcast stations must provide publishers of program guides with information that identifies programming specifically designed to educate and inform children. Broadcast

stations are no longer required to provide program guide publishers an indication of the age group a Core Program is intended to serve.

III. RECORDKEEPING AND REPORTING REQUIREMENTS

A. Reporting Requirements (47 CFR § 73.3526(e)(11)(iii))

The children's programming reporting requirements have been streamlined to reduce reporting burdens on broadcasters.

- Commercial television broadcasters must file a Children's Television Programming Report on FCC Form 2100, Schedule H (formerly, Form 398) on an annual, rather than quarterly, basis. Broadcasters must file the reports electronically within 30 days after the end of the calendar year.
- The reporting form will be modified to eliminate the need for broadcasters to submit duplicative and unnecessary information and to simplify and streamline the form. For example, broadcasters will no longer be required to submit information on the educational and informational programming that a broadcast station intends to air during the next reporting period or to describe the educational and informational purpose of each Core Program and how it meets the definition of Core Programming.
- Stations are no longer required to publicize the existence and location of their Children's Television Programming Reports. Children's Television Programming Reports will continue to be available to the public in broadcast stations' online public files, which are hosted on the Commission's website.

B. Recordkeeping Requirements (47 CFR § 73.3526(e)(11)(ii))

- Broadcast stations, cable operators, and DBS providers must provide records that demonstrate compliance with the limits on commercial matter in children's programming in their public files annually, rather than quarterly. These records must be provided within 30 days after the end of the calendar year.

IV. IMPLEMENTATION DATE

The rules adopted in the *Report and Order* became effective September 16, 2019 except for the amendments to §§ 73.671(c)(5) and (c)(7), (e)(1) and (e)(2), 73.673, 73.3526(e)(11)(ii) and (e)(11)(iii), which contain new or modified information collection requirements that require approval by the Office of Management and Budget under the Paperwork Reduction Act and will become effective after the Commission publishes a document in the *Federal Register* announcing such approval and the relevant effective date.

If a broadcast station decides to switch from the existing three-hours per week safe harbor processing guideline to one of the new annual guidelines for the remainder of 2019 after the September 16, 2019 effective date of the revised rules, the Commission will apply each guideline on a prorated basis to the periods before and after the effective date in determining if the processing guidelines for 2019 were met. The Media Bureau will issue a public notice detailing how the pro-rated guidelines will apply.

Broadcast television station license renewals for the current renewal cycle (i.e., for renewal applications filed between June 1, 2020 and December 1, 2023) will cover licensee performance that both pre-dates and post-dates the effective date of the revised children's programming rules. Licensee performance during any period of the license term pre-dating September 16, 2019 will be evaluated according to the standards in place at that time and licensee performance during any period of the license term that falls after September 16, 2019 will be evaluated according to these newly revised provisions.

V. INTERNET LINKS

A copy of the *Children's Television Programming Rules* Report and Order is available at: <https://www.fcc.gov/document/fcc-modernizes-childrens-tv-programming-rules-0>

A copy of the Federal Register Summary of the *Children's Television Programming Rules* Report and Order is available at: <https://www.federalregister.gov/documents/2019/08/16/2019-16007/childrens-television-programming-rules-modernization-of-media-regulation-initiative>