

Remarks of FCC Chairman Kevin J. Martin
Association of National Advertisers Advertising Law and Business Affairs
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As Prepared for Delivery

Thank you very much, Judy, for that kind introduction. I want to thank Bob Liodice, Dan Jaffe and Doug Wood for inviting me to be here with you today.

As you know well, the media is undergoing unprecedented change. Television programs are sold on the Internet and streamed wirelessly to mobile devices. DVRs mean people watch TV when, where and how they want - - sometimes skipping commercials altogether. Mobile phones now show movies, play songs, take pictures, and even send emergency messages. And you cannot read a business section of a newspaper today without coming across an article about the decline of traditional news and entertainment outlets at the hands of YouTube or My Space. One newspaper editor recently quoted in the Washington Post put it well saying, "you can't really avoid the fact that page views are increasingly the coin of the realm." While technology is changing the advertising market, new opportunities abound. The Wall Street Journal reported yesterday that just one company last year distributed nearly a billion ads to mobile phones.

Although the technology by which it is delivered is changing, people's appetite for news and entertainment has not diminished. And its impact, especially on children, can't be overstated. According to Nielsen Media Research (for the 2004-2005 season), an average American Household has the television turned on more than 8 hours a day with children watching between 2 and 4 hours daily. And recent studies have found that even the youngest children are highly exposed to television. Almost one-half (43 percent) of children under two watch TV every day. One quarter (26 percent) of them even have a television in their bedroom. Almost three-fourths (72 percent) of children age 2 to 6 watch TV every day. The Kaiser Foundation also found that by the time they enter the first grade, kids will have spent the equivalent of three school years in front of the TV.

I have said that with hundreds of channels to choose from, consumers today have access to some of the best programming ever produced. But television today also contains some of the coarsest and most violent programming ever aired. For instance a Time Magazine survey in 2005 found fifty-eight percent of people believe there is too much cursing and sexual language on TV; fifty percent believe there is too much explicit sexual content. And sixty-six percent of people believe there is too much violence on television.

This data is consistent with the FCC's own findings. We have seen a dramatic increase in the number of indecency complaints. And several years ago, Congress requested the FCC study Violent Television and Its Impact on Children. Our report finds that there is a deep concern among parents and health professionals regarding harm from viewing violence in the media.

In addition, there has been a lot of attention recently paid to the alarming rise in childhood obesity rates. According to the CDC, since 1980, the number of overweight children between the ages of 6 and 11 has doubled. The number of overweight adolescents has tripled during that same period. The Christian Science Monitor reported American companies are spending \$15 billion per year advertising to children under the age of 12 and children influence about \$500 billion in annual spending on products like cereal, candy and fast food.

According to the Kaiser Family Foundation, children under 6 cannot distinguish between programming content and advertising. Congress anticipated that children would be particularly susceptible to advertising and thus put certain protections in place. Indeed, in the Children's Television Act, Congress enacted specific limits on the amount of advertising that could be shown during children's programming. The Children's Television Act requires that commercial TV broadcasters and cable operators limit the amount of commercials in children's programs to no more than 10 ½ minutes per hour on weekends and 12 minutes per hour on weekdays. These limits apply to all digital video programming, including both broadcasting and subscription channels, directed to children 12 and under. Our rules also require the separation of programming content from commercial material with a "bumper." Finally, our rules prohibit program characters and show hosts from being featured in commercials run during the program in which they appear.

While government has a responsibility to address concerns about content and excessive marketing to kids, it is always preferable for industry to work on these issues on their own. For example, ANA members have tried to develop significant initiatives to address the trend in childhood obesity rates. Disney's "Healthy Kids Initiative" is employing favorite Disney characters to encourage healthy eating. General Mills is promoting portion control by offering small 100-calorie packages of their snack foods. I am particularly pleased by the ANA's willingness to participate in the Task Force on the Media and Childhood Obesity that the Commission and Senator Sam Brownback recently announced. The goal of this bipartisan task force is to provide a forum in which health experts, advocacy groups, media companies, the food and beverage industry, advertisers and the government can work together to examine the impact of the media on childhood obesity. The Task Force will hold meetings throughout the year and ultimately identify voluntary steps that the public and private sectors can take to combat this very important social and medical problem.

The ANA has also urged "parents, not the government, must act as the first line of defense for their children," adding "it is up to them to determine what programming content to allow into their homes." But that means that industry must ensure that parents have the tools necessary to make those decisions. The best way to avoid government mandates is responsible private sector action. Since I first came to the Commission, I have urged media companies, both broadcasters and cable operators, to provide parents with more tools to help them navigate the entertainment waters, particularly when it comes to television.

For instance, I have long called for broadcasters to bring back the “family hour.” I know you share the commitment to make family friendly programming available between the hours of 8 p.m. and 10 p.m. You have supported and promoted the development and scheduling of family friendly programming through the Family Friendly Programming Forum. And, I applaud these efforts.

While changes in technology certainly challenge regulators and advertisers to keep apace, they provide important opportunities as well. In the digital world, it is technologically feasible, with a few simple steps, for cable and satellite operators to offer consumers more choice over the programming they buy and bring into their homes. For instance, they could purchase smaller bundles such as a family or sports tier. Or they could simply elect not to receive channels they are not interested in. Indeed 78 percent of respondents in an AP poll said they would prefer to choose and pay for their own tailored selection of cable channels. Moving to a more a la carte system of television programming would offer consumers significant benefits, and be consistent with ANA's position that it is parents who should control “what programming content to allow into their homes.”

I was surprised to learn that some advertisers were concerned about giving parents such tools and offering cable channels in more a la carte manner. Generally, the ANA has said: “Marketing accountability is one of the top priorities for ANA members. This push to gain granular visibility and understanding of commercial vs. program ratings is critical for the accuracy of media measurement in the U.S.” I agree, and it should be similarly helpful to have an understanding of who is willing to pay for what programming. The willingness of viewers to pay for a service is extraordinarily helpful information to advertisers much as it is for print media. Advertisers want to know the paid subscriptions and direct sales for a magazine, not just how many copies are printed at the printing press. A magazine read by nobody can have millions of copies and be of little or no value to advertisers. But a magazine with a hundred thousand paying subscriptions can be enormously valuable to those subscribers and to the advertisers trying to reach them.

Suppose the publishing industry were arranged such that consumers who paid \$100 per month would each receive a copy of 200 different magazines. In this scenario consumers could not purchase magazines individually or on the street. You either pay \$100 per month for all magazines, or you get no magazines.

How would advertisers know which magazines to advertise in? Of course there would be consumer surveys and polls, but ultimately advertisers would not know whether most households read 195 magazines throwing out five, or read five magazines and tossed 195 of them into the recycling bin without ever opening them.

That would be a confusing situation for the advertising industry and for the American consumer. So instead, in the magazine world, consumers can, and do, purchase individual subscriptions and purchase individual copies from stores. Indeed, I haven't met anyone who subscribes to 200 magazines.

In most American homes, consumers can watch hundreds of channels of video programming. But the reality is that most viewers watch fewer than two dozen channels. The hundreds of channels included in the most highly subscribed video programming packages each have some form of advertising on them. But how many consumers are actually watching advertisements on a particular channel? My guess is not many. But the sad truth, as both you and your commercial clients know, is that no one actually knows how many people are watching each channel, much less how many are watching each commercial.

Currently the most accurate measures are those Nielsen provides for stations affiliated with the four major networks during prime time. One can easily sell ads during prime time, and advertisers have some sense of the audience being reached. At other times of the day, however, there are fewer viewers and less precise measures of shares of viewer-ship even for network affiliates.

As one goes to the top several cable channels, market shares drops into the low single digits. And as market share declines confidence in the ability to accurately measure actual audience share declines as well. For second and third-tier cable channels, there really are no good approximations of actual audience. For some channels, it is uncertain whether viewership is in the hundreds of thousands, tens of thousands, thousands, or really whether anyone ever watches the channel at all. Advertising is sold on the basis of homes passed and on potential viewership rather than on the basis of actual viewership.

Providing cable channels on a more a la carte basis would decrease the uncertainty for advertisers and their clients about the viewership of smaller cable networks not covered or not accurately covered by Nielson. A la carte sales provide a much more accurate proxy for viewership than sales of the large tier of which the small network is currently one component.

Secondly, if television programming is purchased a la carte, advertisers on a particular channel will know more about the characteristics of their potential audience. Knowing more about the types of consumers that are watching a particular channel means advertisers could target ads to the demographic composition of the audience more effectively.

Finally, I do not believe overall television viewing would decline -- and therefore advertisers would not be harmed -- if consumers had more choice. It goes against common sense to believe that if consumers were able to purchase only the channels they want, they will watch less TV. Are they going to read a book or mow the lawn instead, because there is less clutter to sift through on their TV? I don't think so.

The current tying of channels of video programming is much the same as requiring consumers to buy 200 magazines or none at all. No consumer wants to be required to buy everything. And no advertiser wants to advertise on channels that no one

watches. So I have to ask, why is your industry unenthusiastic about a la carte programming? Allowing consumers to purchase programming on a more a la carte basis would give them greater choice and control over the programming that comes into their homes and would give advertisers more information about exactly who is watching your commercials; information you desperately want and need.

Thank you very much again for the opportunity to be with you today. I look forward to working with you on these and other relevant issues before us at the Commission. I would be happy to answer any questions you may have.

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