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

In the Matter of	)	
	)	
Empowering Parents and Protecting Children in an Evolving Media Landscape	)	MB Docket No. 09-194
	)	

NOTICE OF INQUIRY

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By the Commission: Chairman Genachowski and Commissioners Copps, McDowell, Clyburn and Baker issuing separate statements.

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I. INTRODUCTION

1. The evolving electronic media landscape presents parents with both tremendous opportunities and critical challenges. On the one hand, electronic media technologies present many benefits for children, such as offering an almost unlimited potential for educational avenues and providing

the technological literacy needed to compete in a global economy. On the other hand, the technological developments that produce these benefits also present risks for children. With this Notice of Inquiry ("NOI"), we seek to develop a record that will help us answer the question of how to empower parents to help their children take advantage of these opportunities, while at the same time protecting children from the risks inherent in use of these platforms.

2. From television to mobile devices to the Internet, electronic media offer children today avenues for education that their parents could never have envisioned. Using a television, a mobile device, a computer, or other media platform, children potentially can access educational information on every topic imaginable. The new media landscape is also participatory in nature. In addition to passively viewing or listening to educational content, children are using new technologies, such as social networking sites, to interact with and learn from relatives, friends, and others located across the globe.

3. As children are exposed to new media platforms, however, they may also be exposed to content that is inappropriate or subjected to contact with individuals who may want to cause them harm. The same television, mobile device, computer, or other media platform that provides educational information may also expose children to exploitative advertisements, offensive language, sexually explicit material, violent content, bullying, scams, or even child predators. Media convergence also presents new challenges for parents in monitoring their children's media consumption. The same content that is blocked when a child attempts to view it on a television may be available for viewing on the Internet. Moreover, two decades ago, children's media consumption was limited to the home environment; today, children can access the Internet and its unlimited content options on their mobile devices outside the home where a parent is not present. While indecency regulations apply to radio and television broadcasting, subscription services have generally received different regulatory treatment, requiring parents to take additional actions to protect children when using these services. In addition, children are now creators of content in a participatory media environment, posting their thoughts on blogs and sharing pictures or videos on websites or using mobile phones. Thus, children today are at risk of sharing private information that may be embarrassing or may even expose them to harm.

4. Some parents are aware of the wide range of electronic media technologies available today but are confused about how to ensure that their children benefit from these technologies while avoiding the inherent risks. Other parents may be unaware of the benefits and risks of electronic media technologies, leaving their children in danger of being left behind in the digital revolution or left unsupervised as they navigate this challenging media landscape.

5. Through this NOI, we seek information on the extent to which children are using electronic media today, the benefits and risks these technologies bring for children, and the ways in which parents, teachers, and children can help reap the benefits while minimizing the risks. We start by reviewing the current children's media landscape, including the extent to which children use various kinds of electronic media and the potential impact on children from media use. We acknowledge that a wealth of academic research and studies exists on these issues. As discussed below, we ask commenters to identify additional data and important studies, whether concluded or ongoing, beyond those discussed here.[1] Commenters are also invited to ask and answer any other questions that this NOI fails to raise which they believe would help inform our inquiry.

6. We then explore the many positive impacts on children that media use may have. As discussed below, the benefits of electronic media for children include (i) accessing educational content; (ii) acquiring technological literacy needed to compete in a global economy; (iii) developing new skills in the use of technology and the creation of content; (iv) facilitating new forms of communication with family and peers; (v) improving health through telemedicine; and (vi) removing barriers for children with

[1] *See infra* Sections III.A, III.B.1, III.C.1, III.C.2, and III.D.

disabilities. We seek comment on these benefits, whether parents, teachers, and children are aware of these benefits, and the extent to which educational content is offered over the various electronic media platforms.

7. While we recognize that electronic media technologies offer these potential benefits to children, we also explore the risks of harm that media use presents. As discussed below, these risks include (i) exposure to exploitative advertising; (ii) exposure to inappropriate content (such as offensive language, sexual content, violence, or hate speech); (iii) impact on health (for example, childhood obesity, tobacco use, sexual behavior, or drug and alcohol use); (iv) impact on behavior (in particular, exposure to violence leading to aggressive behavior); (v) harassment and bullying; (vi) sexual predation; (vii) fraud and scams; (viii) failure to distinguish between who can and who cannot be trusted when sharing information; and (ix) compromised privacy. We seek comment on these risks, whether parents, teachers, and children are aware of them, and what can be done to protect children from them.

8. Some experts believe that greater media literacy for parents, teachers, and children is critical to enabling children to enjoy the benefits of electronic media while minimizing the potential harms. We are particularly interested in learning more about the effectiveness of media literacy and what can be done to increase media literacy among parents, teachers, and children. We explore those issues below.

9. In conducting this inquiry, we recognize that other federal agencies are addressing some of the same issues, at least with respect to online safety. We seek comment on what the Commission can do to assist these efforts. We also invite commenters to suggest new actions that the Commission or industry can take to address the issues posed here. In doing so, we ask commenters to discuss whether the Commission has the statutory authority to take any proposed actions and whether those actions would be consistent with the First Amendment. In addressing the issues raised here, we urge commenters to consider the full range of electronic media platforms, including broadcast television and radio, multichannel video programming distributors ("MVPDs"),[2] audio devices, video games, wireless devices, nonnetworked devices, and the Internet.

10. Our goal with this NOI is to gather data and recommendations from experts, industry, and parents that will enable us to identify actions that all stakeholders can take to enable parents and children to navigate this promising electronic media landscape safely and successfully. In this regard, we solicit information on how other nations have dealt with and are dealing with these issues. Commenters should provide data on broadcast services, subscription video and other electronic media platforms. We also note that we recently issued a Report to Congress (the "CSVA Report") pursuant to the Child Safe Viewing Act of 2007[3] that contains relevant data and information for this NOI.[4] In the CSVA Report, we assessed the current state of the marketplace with respect to the existence and availability of advanced blocking technologies, methods of encouraging the development, deployment, and use of such technologies, and the existence, availability, and use of parental empowerment tools and initiatives already in the market. This NOI picks up where the CSVA Report left off, and we urge commenters to read the CSVA Report before filing comments in this proceeding. In addition, we will incorporate the comments filed in the CSVA proceeding by reference into the record on this NOI.

[2] MVPDs include cable operators, Direct Broadcast Satellite ("DBS") providers, and other entities that make available multiple channels of video programming for purchase by subscribers. *See* 47 U.S.C. § 522(13).

[3] *See* Child Safe Viewing Act of 2007, S. 602, P.L. 110-452, 122 Stat. 5025 (December 2, 2008).

[4] *See Implementation of the Child Safe Viewing Act: Examination of Parental Control Technologies for Video or Audio Programming*, MB Docket No. 09-26, Report, FCC 09-69 (rel. Aug. 31, 2009) at ¶ 1 ("CSVA Report").

II. ISSUES FOR COMMENT

A. Children's Media Use

11. Children today live in a media environment that is dramatically different from the one in which their parents and grandparents grew up decades ago. The advent of cable and satellite television, accompanied by the transition to digital technology, has dramatically increased the number of television channels available in most homes. Studies examining the media habits of American children demonstrate that children have access to a wide array of electronic media technologies.[5] For instance, a study using 2004 data indicates that almost all households with children ages 8 to 18 had a television set, video player, radio, and audio player.[6] In fact, a Kaiser Family Foundation study found that in 2004 the typical American child of that age was likely to live in a home with three televisions, three video cassette recorders ("VCRs"), three radios, three CD/tape players, two video game consoles, and a personal computer with an Internet connection.[7] Data from 2005 indicates that this ubiquity even extended to households with children six years and younger, 78 percent of whom had personal computers, and 50 percent of whom had a video game player.[8] According to a recent study by the Pew Internet & American Life Project ("Pew"), 71 percent of children ages 12 to 17 owned cell phones in 2008 and 74 percent owned an iPod or other MP3 player.[9] The study also found that more than 70 percent of 12- and 13-year-olds owned a portable gaming device in 2008 – more than the percentage that owned a cell phone among that age group.[10] We therefore seek information about whether these trends continue to hold true, and ways in which they may have changed.

12. Studies also demonstrate that the pervasive presence of media in the lives of children has led to children spending significant time using some form of media, and often using two or more kinds of media simultaneously. One study found that five years ago, in 2004, children ages 8 to 18 already were reporting an average of five hours and 48 minutes of daily electronic media use, while, in 2005, children six years and younger averaged two hours and twenty four minutes of daily exposure to electronic

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[5] *See generally* Donald F. Roberts and Ulla G. Foehr, *Trends in Media Use* in *The Future of Children*, *Children and Electronic Media*, Princeton University and the Brookings Institution (Spring 2008) (available at http://futureofchildren.org/futureofchildren/publications/docs/18_01_02.pdf); Donald F. Roberts, Ulla G. Foehr, and Victoria Rideout, *Generation M: Media in the Lives of 8-18Year-olds*, Kaiser Family Foundation (March 2005) (available at http://www.kff.org/entmedia/entmedia030905pkg.cfm) ("*Generation M: Media in the Lives of 8-18 Year-Olds*").

[6] *See* Roberts and Foehr, *Trends in Media Use*, at 15 and Table 1.

[7] *See Generation M: Media in the Lives of 8-18 Year-Olds* at 10. The same study found that more than two-thirds of children ages 8 to 18 had a television in their bedroom, and over one-third received a cable or satellite signal on their bedroom television. *See id*. at 14. In addition, the study concluded that more than half of children this age had their own VCR in their bedroom, 49 percent had a video game console that connects to a television, and 35 percent had either a desktop or laptop computer or both. *See id.* According to the study, 20 percent of children ages 8 to 18 had an Internet connection in their bedroom. *Id.*

[8] *See* Roberts and Foehr, *Trends in Media Use*, at 15 and Table 1. The study also found that 23 percent of younger children had a video player in their bedroom, ten percent had a video game player in their bedroom, and five percent had a personal computer in their bedroom. *See id.*

[9] *See* Amanda Lenhart, *Teens and Mobile Phones Over the Past Five Years: Pew Internet Looks Back*, Pew Internet & American Life Project (August 2009) (available at http://www.pewinternet.org/Reports/2009/14--Teens-and-Mobile-Phones-Data-Memo.aspx), at 5.

[10] *See id*. at 12-13. According to the study, only approximately one-half of 12 and 13 year-olds owned a cell phone. *See id*. at 13. In addition, boys were more likely than girls to own a portable gaming device. *See id*.

media.[11] Further, a Kaiser Family Foundation study analyzing 2004 data concluded that 8- to 18-year-olds watched on average just over three hours of television each day and nearly four hours when videos, DVDs, and pre-recorded shows were included.[12] The same study found that 12- to 13-year-olds spent about 1¾ hours each day listening to music (including radio, CDs, tapes, or MP3 players), one hour each day on the computer (not including schoolwork), and just under 50 minutes each day playing video games.[13] The study also concluded that one quarter of the time that 8- to 18-year-olds used media, they used two or more media at the same time.[14] Thus, the amount of media content to which children were exposed exceeded the number of hours children actually used media.[15] We seek comment on how these viewing habits may have changed in the past several years. We also seek comment on the extent to which the rise of media multitasking by children – their use of more than one kind of electronic media simultaneously – may be increasing their total exposure to media content.[16]

13. The rise in Internet use by children plays a significant role in their exposure to more forms of media. For instance, according to a Pew study analyzing data from 2006, 93 percent of American children ages 12 to 17 accessed the Internet.[17] The number of applications children are using online are increasing as well: children are now heavily involved on social networking sites,[18] share videos on sites such as YouTube and GoogleVideo, and share artwork, photos, stories, and videos online.[19] We seek comment on whether these trends have increased and whether children have begun using other new forms of media over the past several years.

14. We ask commenters to identify additional data and studies on children's media use beyond those that we have discussed. Are there additional relevant studies describing which media platforms children are using most frequently? Are there studies analyzing trends in children's media consumption (for example, how does the amount of time children spend texting and using social networking sites compare to television viewing, and how has this changed over time)? Are there studies describing where children use media (inside the home in the presence of a parent or outside the home)?

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[11] *See* Roberts and Foehr, *Trends in Media Use*, at 19 and Table 2.

[12] *See Generation M: Media in the Lives of 8-18 Year-Olds* at 23 and Table 4-A.

[13] *See id.* at Table 4-G, 4-J, 4-L. The study also found that children ages 8 to 18 spent approximately 43 minutes each day outside of schoolwork with print media (books, magazines, and newspapers). *See id.* at Table 4-E.

[14] *See id*. at 36. Specifically, the study found that 53 percent of children listened to music, read, or used a computer when watching TV. *Id*. In addition, 58 percent media multitasked most or some of the time when reading, 63 percent when listening to music, and 65 percent when using a computer. *See id.*

[15] *See id*.

[16] *See* Jeanne Brooks-Gunn and Elisabeth Hirschhorn Donahue*, Introducing the Issue* in *The Future of Children*, *Children and Electronic Media*, Princeton University and the Brookings Institution (Spring 2008) (available at http://futureofchildren.org/futureofchildren/publications/docs/18_01_01.pdf), at 4.

[17] *See* Amanda Lenhart, Mary Madden, Alexandra Rankin Macgill, and Aaron Smith, *Teens and Social Media*, Pew Internet & American Life Project (December 2007) (available at http://www.pewinternet.org/Reports/2007/Teens-and-Social-Media.aspx), at i.

[18] *See* Amanda Lenhart & Mary Madden, *Social Networking Websites and Teens: An Overview*, Pew Internet & American Life Project (January 2007) (available at http://www.pewinternet.org/Reports/2007/Social-Networking-Websites-and-Teens.aspx), at 2. In addition, this study found that 48 percent of children ages 12 to 17 who used the Internet visited social networking websites at least once each day, and 22 percent visited several times each day. *See id.*

[19] *See* Lenhart, Madden, Macgill, and Smith, *Teens and Social Media*, at i-ii.

In what ways does media consumption vary depending on a child's age? Are there studies concerning what kinds of content are most commonly accessed by children, and if so, what do such studies conclude?

15. We also seek comment on whether there are classes of children who do not have access to new digital media platforms. Does access vary depending on race, ethnicity, geography, parental income, or disability? Does access depend on the educational level of a child's parents? What studies have been done on these issues? What can government or industry do to ensure that all children have access to digital media?[20]

16. We invite commenters' views on which studies are most reliable, what gaps exist in the research, and where the Commission could contribute by commissioning further studies. In particular, we ask commenters to identify whether the studies cited account for the newest media technologies.

B. Benefits of Electronic Media for Children

17. Electronic media offer numerous benefits for children. As discussed below in more detail, among these benefits are (i) access to educational content; (ii) acquiring technological literacy needed to compete in a global economy; (iii) developing new skills in the use of technology and the creation of content; (iv) facilitating new forms of communication with family and peers; (v) improving health through telemedicine; and (vi) removing barriers for children with disabilities. We seek further information on the benefits that electronic media offer for children, what actions can be taken to ensure that parents, teachers, and children are aware of these benefits, and the extent to which educational content is offered over the various electronic media platforms.

1. Key Benefits

18. Substantial evidence indicates that one significant benefit of media for children is helping children to learn. Research on educational television programs for children demonstrates that programs designed with a specific goal to teach academic or social skills can be effective, with potentially long-lasting effects.[21] A number of studies have concluded that preschoolers who viewed *Sesame Street* had higher levels of school readiness than those who did not.[22] Evidence also shows that children who were regular viewers of the educational program *Blue's Clues* showed improved problem-solving skills.[23]

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[20] We note that the American Recovery and Reinvestment Act of 2009 authorized the Commission to create the National Broadband Plan that "shall seek to ensure that all people of the United States have access to broadband capability and shall establish benchmarks for meeting that goal." *See* American Recovery and Reinvestment Act of 2009, Pub. L. No. 111-5, 123 Stat. 115 (2009). The Commission is currently conducting a proceeding to develop this plan. *See A National Broadband Plan for Our Future*, Notice of Inquiry, 24 FCC Rcd 4342 (2009). Unlike the proceeding on the National Broadband Plan, this NOI focuses exclusively on children and their access to all forms of digital media.

[21] *See* Heather L. Kirkorian, Ellen A. Wartella, and Daniel R. Anderson, *Media and Young Children's Learning*, at 47, and Barbara J. Wilson, *Media and Children's Aggression, Fear, and Altruism*, at 107-108 (both in *The Future of Children*, *Children and Electronic Media*, Princeton University and the Brookings Institution (Spring 2008) (available at http://futureofchildren.org/futureofchildren/publications/journals/journal_details/index.xml?journalid=32)).

[22] *See* Kirkorian, Wartella, and Anderson, *Media and Young Children's Learning*, at 47. This article provides a summary of research conducted on media exposure and its influence on children's cognitive development and academic achievement. *See id*. at 39. It notes that *Sesame Street* has been "by far the most studied children's program" and cites a number of studies that have demonstrated a positive association between early exposure to *Sesame Street* and school readiness. *See id*. at 47.

[23] *See id.* at 46-47. Congress has recognized that television can help to educate and inform children. In enacting the Children's Television Act of 1990, Pub. L. No. 101-437, 104 Stat. 996, *codified at* 47 U.S.C. §§ 303a, 303b, 394, Congress cited research demonstrating that television programs designed to teach children specific skills, such as (continued….)

Research on educational interactive media software and digital games suggests they may have similar positive results.[24] There is also evidence that mobile media, such as cell phones and iPods, can be useful in enabling a personalized learning experience for children, encouraging children to learn outside of school, and reaching underserved children.[25]

19. Children with digital media skills are also likely to be better positioned to compete in today's workplace. As a greater number of workplaces incorporate computers and the Internet into everyday work activities, the ability of young people to use these tools becomes critical to ensuring the availability of job opportunities.[26] One study has suggested that teaching at-risk youth marketable skills such as word processing, Web design, desktop publishing, or video production can help them find jobs and resume their education.[27]

20. For older children and youth, new forms of media have opened up new ways of communicating with peers and family. Cell phones, text messaging, and social networking sites, for example, have become important means by which many youths communicate with peers and parents. Studies have suggested that these communication tools are used by adolescents primarily to reinforce existing relationships and can have a positive impact on their social connections.[28]

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Mister Rogers' Neighborhood and *Sesame Street*, are effective. *See* S. Rep. No. 101-227, at 5-9 (1989); *see also Policies and Rules Concerning Children's Television Programming*, Report and Order, 11 FCC Rcd 10660, 10663-67 (1996) ("*Children's Programming Report and Order*").

[24] *See* Kirkorian, Wartella, and Anderson, *Media and Young Children's Learning*, at 47; *see also* Ann My Thai, David Lowenstein, Dixie Ching, and David Rejeski, *Game Changer: Investing in Digital Play to Advance Children's Learning and Health*, The Joan Ganz Cooney Center at Sesame Workshop (June 2009) (available at http://www.joanganzcooneycenter.org/pdf/Game_Changer_FINAL.pdf). One study discussed how an online game based on Pac-Man was successful in promoting healthy food choices and encouraging children to eat better. *See* Tiffany A. Pempek and Sandra L. Calvert, *Use of Advergames to Promote Consumption of Nutritious Foods and Beverages by Low-Income African American Children*, Archives of Pediatrics & Adolescent Medicine, Vol. 7, No. 163 (2009).

[25] *See* Carly Shuler, *Pockets of Potential: Using Mobile Technologies to Promote Children's Learning*, The Joan Ganz Cooney Center at Sesame Workshop (January 2009) (available at http://www.joanganzcooneycenter.org/pdf/pockets_of_potential.pdf), at 5.

[26] *See* Wendy Lazarus, Andrew Wainer, and Laurie Lipper, *Measuring Digital Opportunity for America's Children: Where We Stand and Where We Go From Here*, The Children's Partnership (June 2005) (available at http://www.childrenspartnership.org/AM/Template.cfm?Section=Technology), at 6. Other research has also concluded that children who use the Internet are developing skills and knowledge needed for the modern workplace. *See*, *e.g.*, *Digital Culture Prepares Young Minds*, eMarketer Digital Intelligence (March 21, 2006) (available at http://www.emarketer.com/Article.aspx?1003881).

[27] *See* Lazarus, Wainer, and Lipper, *Measuring Digital Opportunity for America's Children: Where We Stand and Where We Go From Here*, at 6. This study also found that youths proficient in using the Web to search for jobs are better positioned to find employment in today's workplace. *See id*. Indeed, as the Broadband Task Force noted in the context of our national broadband proceeding, as of 2005 some 77 percent of Fortune 500 companies did not give jobseekers the option of responding offline to positions posted on their corporate careers website. *See* FCC Broadband Task Force Status Report, September Commission Meeting (September 29, 2009) at 83 (available at http://hraunfoss.fcc.gov/edocs_public/attachmatch/DOC-293742A1.pdf).

[28] *See* Kaveri Subrahmanyam and Patricia Greenfield, *Online Communication and Adolescent Relationships* in *The Future of Children*, *Children and Electronic Media*, Princeton University and the Brookings Institution (Spring 2008) (available at http://futureofchildren.org/futureofchildren/publications/docs/18_01_06.pdf), at 125-26; *see also* Mizuko Ito and Heather Horst, *Living and Learning with New Media: Summary of Findings From the Digital Youth Project*, John D. and Catherine T. MacArthur Foundation Reports on Digital Media and Learning (November 2008) (available at http://digitalyouth.ischool.berkeley.edu/report).

21. There is also evidence that media tools can improve children's health. One study has noted that a variety of media solutions are being used today to promote better health outcomes for children, including the development of interactive games and social networking programs to help children understand and self-manage chronic conditions.[29] Another study found that media tools can provide a resource for children to help them learn about important health topics, including nutrition, and to influence healthy behavior.[30]

22. Evidence also suggests that media technology can help those with disabilities by, for example, assisting those with vision impairments to read, providing on-screen translations to the hearing-impaired, and enabling the physically impaired to work or take care of themselves at home.[31]

23. We seek comment on the benefits identified above as well as other potential gains from children's media use. What do child psychologists, educators, and academics know today about the favorable effects of media on children? Do the benefits to children vary depending on the child's age, socio-economic class, or other factors such as disability? Are there studies other than the ones cited above that are important to consider with respect to the benefits of electronic media for children? Among the studies that have been conducted, which are most reliable or most widely recognized as providing important information on this issue? Do these studies account for the newest media technologies? Are there significant gaps in the understanding of the benefits of electronic media to children that should be filled by further studies? If so, what studies should be done and what role should the Commission play in facilitating further learning about these benefits?

24. Electronic media are most likely to benefit children if parents, teachers, and children are aware of the possible benefits.[32] We seek further information about the level of awareness among parents, teachers, and children of the benefits of electronic media. While some parents make efforts to ensure that their children are exposed to beneficial media, other parents may not be engaged with their children's media use, may be unfamiliar with the potential benefits of media use, or may not be technically competent to assist their children with electronic media. What efforts can be taken to ensure that all children receive the benefits of electronic media? What efforts have been made and should be made to educate parents and teachers about how to harness the benefits of electronic media for children?

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[29] *See Technology-Enabled Innovations for Improving Children's Health, A Joint Research and Policy Initiative of The Children's Partnership and The Public Health Institute/Health Technology* (August 2009) (available at http://www.childrenspartnership.org/Content/NavigationMenu/Programs/EHealthAgendaforChildren/TechnologyEnabledInnovations/Technology_Enabled_I.htm), at 3. This study also shows that electronic media tools are being used in other ways to promote children's health. For example, Web-based programs are being used to facilitate enrollment of low-income populations in public benefit programs, and electronic systems are being developed to provide information to physicians and school nurses to improve child health care.

[30] *See* Lazarus, Wainer, and Lipper, *Measuring Digital Opportunity for America's Children*, at 6, 12. This study also showed that email and Web-based communications between families and doctors can improve the exchange of health information and can offer a cost-effective means to manage chronic health problems common among children, including asthma. *Id.*

[31] *See id*. at 8.

[32] *See* Ann Cami, *Parenting in a Media-Saturated World* (available at http://futureofchildren.org/futureofchildren/publications/highlights/18_01_highlights_05.pdf), at 2 ("Awareness requires understanding the various forms of media and types of content available to children at different ages, and whether or not children's exposure to such media and content is beneficial or harmful to particular children at particular points in their development."); *Game Changer: Investing in Digital Play to Advance Children's Learning and Health* at 31 (stating that teachers, parents, health professionals, and afterschool providers need to be trained to understand the benefits of digital games).

2. Educational Content

25. Electronic media can be used to provide educational content for children, but it is unclear how much educational content is being offered today across electronic media platforms. We invite comment on this issue. Is there enough educational content for children available on electronic media today? Do sufficient marketplace incentives exist to create educational content for children, or is governmental or industry action needed to increase incentives? Is there educational content available for children with particular needs, including, for example, children whose first language is not English? Is there adequate content available for children of different ages?

26. To the extent there is educational or other beneficial content available for children today, what means do parents, teachers, and children have to select or "white list" this content? In the CSVA Report, we discussed a number of technologies currently available that permit parents or others to select or "white list" content, including tools for the Internet, cell phones, and television.[33] Are there examples of tools that allow parents to find and select educational content available on particular media that stand out as best practices? Could any such best practices be extended to other media?

27. To the extent commenters believe there is an insufficient amount of educational or other beneficial content available for children today, we invite comment on what steps the government or industry could take to promote the development and availability of this content. Are there any partnerships between commercial entities and public or noncommercial entities that enable the creation of educational content? We note that the Children's Television Act ("CTA")[34] is one example of government action to promote the availability of educational content on one type of medium – broadcast television.[35] We invite comment on whether the Commission's rules implementing the CTA have been effective in promoting the availability of educational content for children on broadcast television.[36] We note that a 2008 Children Now study concluded that, while stations are generally meeting the three-hour-per-week core programming benchmark, most core programs focus on social-emotional lessons for children rather than cognitive-intellectual topics, such as physical science, history, or cognitive skills, and that relatively few core programs are "highly educational."[37] We ask commenters to describe the quality

[33] *See* CSVA Report at ¶¶ 36-38, 65, 71, 99, 150.

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

[35] Among other things, the CTA requires the Commission, in its review of commercial television broadcast renewal applications, to consider whether 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." 47 U.S.C. § 303b. The Commission's rules implementing the CTA establish a processing guideline pursuant to which a commercial television licensee can receive staff-level approval of the CTA aspect of its license renewal application if it airs at least three hours per week of "core programming." *See* 47 C.F.R. § 73.671(e). Commercial television licensees not meeting these criteria will have their license renewal applications referred to the Commission. *See id.* The Commission's rules establish that core programming is programming specifically designed to serve the educational and informational needs of children that, among other things, (i) has as a significant purpose to serve the educational and informational needs of children ages 16 and under; (ii) is aired between the hours of 7:00 a.m. and 10:00 p.m.; (iii) is a regularly scheduled weekly program; and (iv) is at least 30 minutes in length. *See* 47 C.F.R. § 73.671(c).

[36] We note that the Commission sought comment in 2007 on the status of children's television programming and compliance with the CTA. *See Commission Seeks Comment on the Status of Children's Television Programming*, MM Docket No. 00-167, Public Notice, 22 FCC Rcd 7267 (MB, 2007). That proceeding remains pending. We incorporate the record of that proceeding by reference into this proceeding.

[37] *See* Barbara J. Wilson, Dale Kunkel, and Kristin L. Drogos, *Educationally/ Insufficient? An Analysis of the Availability and Educational Quality of Children's E/I Programming*, Children Now (Nov. 2008) (available at (continued….)

of core programming provided by commercial television licensees today. Is there a sufficient amount of cognitive/intellectual children's programming available today? Would children benefit from more cognitive/intellectual programming? We also ask commenters to describe the quality of core programming provided on broadcasters' multicast streams, as well as what steps broadcasters take to promote that programming.[38] What are the economics of providing educational content? What is the audience size for this programming? Should the Commission consider an approach that would permit commercial entities to fund the creation of educational content to be provided by others, such as PBS.[39] How would such a regime be implemented and enforced?

C. Risks of Electronic Media for Children

28. While electronic media offer numerous benefits for children, they also present risks. As discussed below, among these risks are (i) exposure to exploitative advertising; (ii) exposure to inappropriate content (such as offensive language, sexual content, violence, or hate speech); (iii) impact on health (for example, childhood obesity, tobacco use, sexual behavior, or drug and alcohol use); (iv) impact on behavior (in particular, exposure to violence leading to aggressive behavior); (v) harassment and bullying; (vi) sexual predation; (vii) fraud and scams; (viii) failure to distinguish between who can and who cannot be trusted when sharing information; and (ix) compromised privacy. We seek further information on the risks that the evolving electronic media landscape presents for children, whether parents, teachers, and children are aware of these risks, and what can be done to protect children from them.

1. Potential Risks

29. One significant concern with children's exposure to media is the harms that may arise from advertising specifically directed to children and used to influence children's consumption of products.[40] Some of these products may be unhealthy food that can promote obesity.[41] In addition, there

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http://publications.childrennow.org/publications/media/eireport_2008.htm), at 3, 7, 22. The educational quality of programs was measured by judging each episode on the basis of six criteria related to the primary lesson being presented. Each criterion was judged on a 3-point scale from low (0) to high (2), and episodes that received a total of 11 or 12 points on a scale from 0 to 12 were considered highly educational. *See id*. at 4. The study also concluded that the educational quality of core programs has diminished in recent years; few stations are airing more than the minimum number of core programs necessary to qualify under the processing guideline; and the large majority of core programs are aired on weekend mornings rather than distributed across all days of the week. *See id.* at 22-23.

[38] For commercial television licensees that choose to multicast, the core programming benchmark is increased in a manner roughly proportional to the increase in free video programming offered by the broadcaster on multicast channels. *See* 47 C.F.R. § 73.671(e).

[39] The Commission sought comment on a "Pay or Play" model in a 2000 NPRM pertaining to children's television programming. *See Children's Television Obligations of Digital Television Broadcasters*, Notice of Proposed Rule Making, 15 FCC Rcd 22946, 22954-55, ¶ 20 (2000) (explaining that, under a "Pay or Play" model, "broadcasters would have the choice of meeting [core programming] obligations either through their own programming or by paying other networks or channels to air these hours for them, or a combination of both"). In addition, the Commission's rules provide that, in the event a licensee does not satisfy the core programming processing guideline, the Commission may consider the licensee's sponsorship of core programming on other stations in the market in evaluating the licensee's compliance with the CTA. *See* 47 C.F.R. § 73.671(e)(1).

[40] *See* Sandra L. Calvert, *Children as Consumers: Advertising and Marketing* in *The Future of Children*, *Children and Electronic Media*, Princeton University and the Brookings Institution (Spring 2008) (available at http://futureofchildren.org/futureofchildren/publications/docs/18_01_09.pdf), at 206-07.

[41] *See id.*; *see also* Centers for Disease Control and Prevention, Childhood Overweight and Obesity (available at http://www.cdc.gov/obesity/childhood/index.html).

is some evidence that younger children often do not understand the persuasive intent of advertisements, and even older children may have difficulty understanding the intent of newer marketing techniques, such as interactive,[42] embedded,[43] viral,[44] and behavioral[45] advertising that blur the line between commercial and program content.[46]

30. There is also concern about children's exposure to media content that may be inappropriate, such as offensive language, obscenity, indecency, profanity, or other content that is unsuitable for minors, as well as concern about exposure to content that could influence children to engage in behaviors that pose risks to their health. For example, studies have indicated that heavy exposure of children to violent media content may increase the likelihood of future aggressive and violent behavior, and that youth exposed to smoking in media are more susceptible to viewing smoking favorably and to becoming smokers.[47] Studies have also noted a link between exposure of adolescents to sexual

[42] *See* Hairong Li and John D. Leckenby, *Why We Need the Journal of Interactive Advertising,* Journal of Interactive Advertising, Vol. 1, No. 1, Fall 2000 (available at http://www.jiad.org/article1) (defining interactive advertising as the "paid and unpaid presentation and promotion of products, services and ideas by an identified sponsor through mediated means involving mutual action between consumers and producers").

[43] Embedded advertising refers to "situations where sponsored brands are included in entertainment programming" and its purpose is to "draw on a program's credibility in order to promote a commercial product by weaving the product into the program." *See Sponsorship Identification Rules and Embedded Advertising*, Notice of Inquiry and Notice of Proposed Rule Making, 23 FCC Rcd 10682, 10682-83 (2008). According to one recent survey, the amount of embedded advertising has increased considerably as evidenced by a review of primetime network television broadcast programming aired in the second quarter of 2009. *See* TNS Media Intelligence, *TNS Media Intelligence Reports U.S. Advertising Expenditures Declined 14.3 Percent in First Half 2009* (Sept. 2009) (available at http://www.tns-mi.com/news/09162009.htm).

[44] *See* Theresa Howard, *Viral Advertising Spreads Through Marketing Plans*, USA Today, June 23, 2005 (available at http://www.usatoday.com/money/advertising/2005-06-22-viral-usat_x.htm) (defining viral advertising as "a marketing strategy that involves creating an online message that's novel or entertaining enough to prompt consumers to pass it on to others - spreading the message across the Web like a virus at no cost to the advertiser").

[45] Behavioral advertising is the "tracking of a consumer's activities online -- including the searches the consumer has conducted, the webpages visited, and the content viewed -- in order to deliver advertising targeted to the individual consumer's interests." *A National Broadband Plan for our Future,* Notice of Inquiry, 24 FCC Rcd 4342, 4363 (2009).

[46] *See* Calvert, *Children as Consumers: Advertising and Marketing*, at 207-12; *see also Parents, Children & Media, A Kaiser Family Foundation Survey* (June 2007) (available at http://www.kff.org/entmedia/ upload/7638.pdf), at 6 ("*2007 Kaiser Family Foundation Study*"); *Report of the American Psychological Association Task Force on Advertising and Children* (2004) (available at http://www.apa.org/releases/ childrenads.html), Summary of Findings and Conclusions at 4-5 ("Studies of children indicate that those below the ages of 4-5 years do not consistently distinguish program from commercial content, even when program/commercial separation devices . . . are used. . . . [M]ature comprehension of advertising occurs no earlier than age 7–8 years on average."). Research suggests that older youths may also be potentially more vulnerable to commercial messages until late adolescence or early adulthood. *See* Cornelia Pechmann, Linda Levine, Sandra Loughlin, and Frances Leslie, *Impulsive and Self-Conscious: Adolescents' Vulnerability to Advertising and Promotion*, Journal of Public Policy and Marketing, American Marketing Association, Vol. 24, Fall 2005 (available at http://web.gsm.uci.edu/ antismokingads/articles/CP_JPPM_05.pdf), at 202, 212; Agnes Nairn and Cordelia Fine, *Who's Messing With My Mind? The Implications of Dual-Process Models for the Ethics of Advertising to Children*, International Journal of Advertising, Vol. 27, No. 3 (2008), at 447-48.

[47] *See* Soledad Liliana Escobar-Chaves and Craig A. Anderson, *Media and Risky Behaviors* in *The Future of Children*, *Children and Electronic Media*, Princeton University and the Brookings Institution (Spring 2008) (available at http://futureofchildren.org/futureofchildren/publications/docs/18_01_07.pdf), at 148, 158, 169. According to these authors, social science and health researchers have examined and written extensively about the (continued….)

content on television and early sexual behavior, and have found that exposure to alcohol advertising and to electronic media that portray alcohol use increases adolescents' alcohol use.[48] One study has concluded that children who spend more time playing video games are more likely to get into physical fights and be "physically heavier."[49] In addition, as noted above, the growing epidemic of childhood obesity has focused attention on the possible role of media use and food advertising in influencing children's body weight and eating behaviors.[50] While many studies conclude that exposure to particular kinds of media content can pose a risk to children, there is also some evidence that too much time spent with electronic media in general can be harmful to children's health.[51]

31. The increased use of the Internet by children, including the increased use of social networking sites, creates new risks to minors online, including the danger of sexual solicitation, exposure to online harassment and bullying, frauds and scams, and compromised privacy. One study has concluded, however, that the risks minors face online, including harassment, bullying, and sexual solicitation, "are not radically different in nature or scope than the risks minors have long faced offline, and minors who are most at risk in the offline world continue to be most at risk online."[52] With respect to online sexual solicitation of minors, research has indicated that approximately 13 percent of youths have

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possible connection between the high levels of media exposure in the United States and increased risky behaviors by adolescents. *See id*. at 148. The article presents and evaluates the research findings on the links between adolescent exposure to electronic media and a variety of risky behaviors, including obesity, smoking, alcohol use, early sexual initiation, and violence. *See id.; see also Violent Programming and its Impact on Children,* Report, 22 FCC Rcd 7929, 7931-39 (2007).

[48] *See* Escobar-Chaves and Anderson, *Media and Risky Behaviors*, at 162, 165; *see also* Marcella Nunez-Smith, Ezekiel Emanuel, and Cary Gross, *Media and Child and Adolescent Health: A Systematic Review*, Common Sense Media (2008) (available at http://www.commonsensemedia.org/about-us/press-room/press-releases/study-reveals-media-damages-child-health), at 6, 7. The latter study describes the results of a meta-analysis of studies on media and child health published in the previous 28 years and evaluates the evidence from those studies regarding the impact of media quantity and content on the health of children and adolescents in seven areas: obesity, tobacco use, drug use, alcohol use, low academic achievement, sexual behavior, and attention deficit disorder. *See* Nunez-Smith, Emanuel, and Gross, *Media and Child and Adolescent Health: A Systematic Review*, at 3.

[49] *See* Suzanne Martin and Koby Oppenheim, *Video Gaming: General and Pathological Use*, Harris Interactive, Trends & Tudes, Volume 6, Issue 3 (March 2007) (available at http://www.harrisinteractive.com/news/newsletters/k12news/HI_TrendsTudes_2007_v06_i03.pdf), at 1.

[50] *See* Escobar-Chaves and Anderson, *Media and Risky Behaviors*, at 154; *see also* Nunez-Smith, Emanuel, and Gross, *Media and Child and Adolescent Health: A Systematic Review*, at 5.

[51] *See* Nunez-Smith, Emanuel, and Gross, *Media and Child and Adolescent Health: A Systematic Review,* Executive Summary at 2 (80 percent of the studies reviewed in this meta-analysis of studies on media and child health showed that greater media exposure is associated with negative health outcomes for children). This study also showed that, of the studies that examined the number of hours children watched, played, or listened to media, 75 percent reported that more time spent with media was associated with a negative health outcome. *See id*. at 3. Another study has concluded, however, that media consumption does not take children away from other pursuits and that "young people who spend the most time using media are also those whose lives are the most full with family, friends, sports, and other interests." *Generation M: Media in the Lives of 8-18 Year-Olds*, Executive Summary at 14. Moreover, the study noted that there was not any difference in the amount of time children report spending in physical activity between heavy and the light TV users, or between those who spend the most time with all forms of media and those who spend less time with media. *See id*.

[52] *See* Internet Safety Technical Task Force, *Enhancing Child Safety and Online Technologies: Final Report of the Internet Safety Technical Task Force to the Multi-State Working Group on Social Networking of State Attorneys General of the United States* (2008) (available at http://cyber.law.harvard.edu/pubrelease/isttf/), at 7 ("ISTTF Report").

received sexual solicitations online, and most of these recipients are between 14 and 17 years of age.[53] Research has also found that most sexual solicitors of children online are other adolescents rather than adults.[54] The percentage of youths who receive sexual solicitations online has declined in recent years, however, and research has suggested that online harassment or cyberbullying of children may pose a more common threat.[55] Although studies differ widely in the number of adolescents that report being victimized by the use of the Internet, text messages, or email to embarrass or threaten them, one study conducted in 2005 found that more than 70 percent of teens had been harassed in the previous year.[56] Concerns have been expressed also about the potential infringement of privacy and potential exploitation of children online, ranging from concerns about children posting personal information online to concerns about commercial organizations targeting children through such practices as "data-mining."[57] One study has concluded that 46 percent of children have disclosed personal information to someone they met online.[58]

32. We seek comment on these and other possible risks we have not identified. What are the chief harms that can befall children from using electronic media, and how serious are they? What do child psychologists, educators, and academics know today about the risks of media exposure to children? Is there a consensus about the most significant risks? Are there certain risks that are just as likely to be present even when children are not using electronic media?[59] Do the risks vary depending on the child's age, socio-economic class, or other factors? Are there studies other than the ones cited above that are important to consider with respect to the risks electronic media pose to children? Among the studies that have been conducted, which ones are more reliable or more widely recognized as providing important information on this issue? Do these studies account for the newest media technologies? Are there important gaps in the understanding of the risks of electronic media to children that should be filled by further studies? If so, what studies should be done and what role should the Commission play in facilitating further learning about these risks?

33. In addition, the level of awareness of these risks among parents, teachers, and children is unclear. We seek to learn more about how aware parents, teachers, and children are of the risks of electronic media exposure. What efforts have been made and should be made to educate parents, teachers, and children about these risks?

2. Impact of Advertisements on Children

34. Exposure to excessive and exploitative advertisements is a significant risk children face from electronic media. Advertisements of particular concern for children include: (i) those that promote products specifically to children; (ii) those that promote unhealthy food, thereby contributing to childhood obesity, and (iii) those that contain inappropriate content, such as offensive language, sexual content, and

[53] *See id.* at 15.

[54] *See id*.

[55] *See id; see also* Subrahmanyam and Greenfield, *Online Communication and Adolescent Relationships*, at 134.

[56] *See* Subrahmanyam and Greenfield, *Online Communication and Adolescent Relationships,* at 127-28; *see also* ISTTF Report at 17.

[57] *See* ISTTF Report at 57-59; *see also New.Net, Inc. v. Lavasoft,* 356 F.Supp.2d 1071, 1077-78 (C.D. Cal., 2003) (defining data mining as "collecting and storing information about end users' Internet browsing activities and using that information to target end users ....").

[58] *See* ISTTF Report at 58.

[59] *See, e.g*., *id*. at 7 (concluding that the risks minors face online, including harassment, bullying, and sexual solicitation, "are not radically different in nature or scope than the risks minors have long faced offline").

violence. While we discuss below the means parents have to protect children from the risks of electronic media use, those means might be less useful in protecting children from advertisements. For example, household media rules are unlikely to be effective in protecting children from inappropriate advertisements, because parents are usually not aware of the content of a particular advertisement before a child sees it. Similarly, parental control technologies generally block entire programs or websites rather than specific commercials contained within otherwise acceptable content for children.

35. What do child psychologists, educators, and academics know about the effects of advertisements on children?[60] In what ways do these effects vary based on a child's age, socio-economic class, or other factors? Among the studies that have been conducted, which ones are most reliable or most widely recognized as providing important information on this issue? Do these studies consider advertisements carried on newer media technologies, such as the Internet and mobile devices? Do advertisements for beneficial products, such as nutritious foods, produce positive effects for children? Are there significant gaps in the understanding of the effects of advertisements on children that should be filled by further studies? If so, what studies should be done and what role should the Commission play in facilitating further learning about these risks?

36. New digital media also make possible new forms of advertising that warrant scrutiny into how they impact children. As discussed above, these forms of advertising include interactive advertisements, including advergames,[61] and embedded advertisements,[62] as well as behavioral and viral advertising campaigns. To what extent are children subjected to these new forms of advertising, including when using the Internet and mobile devices? What do child psychologists, educators, and academics know about the effects of these new forms of advertising on children? Can they have a positive impact if the advertisement is for something beneficial, such as nutritious food?

37. The CTA is an example of a governmental action to ensure that one type of medium – television – limits the amount of advertising viewed by children. Specifically, as implemented by the Commission, the CTA requires commercial television licensees, cable operators, and DBS providers to limit the amount of commercial matter that may be aired during children's television programs to not more than 10.5 minutes per hour on weekends and not more than 12 minutes per hour on weekdays.[63] In

[60] *See supra* Section III.C.1.

[61] *See* Kaiser Family Foundation, *It's Child's Play: Advergaming and the Online Marketing of Food to Children* (July 2006) (available at http://www.kff.org/entmedia/upload/7536.pdf), at 1 (describing advergames as "advertiser-sponsored video games [that] embed brand messages in colorful, fun, and fast-paced adventures. They are created by a firm for the explicit purpose of promoting one or more of its brands."). The article also notes that advergames are "a particular form of 'branded entertainment' which is the insertion of a brand within an entertainment property (*e.g.*, product placement in film, television show or video game). In so doing, the lines between entertainment and advertising become blurred." *Id.*

[62] We note that there are pending NPRMs on interactive and embedded advertising in television. *See Children's Television Obligations of Digital Television Broadcasters*, Report and Order and Further Notice of Proposed Rulemaking, 19 FCC Rcd 22943, 22967 (2004) ("*2004 Order and FNPRM*"); *Sponsorship Identification Rules and Embedded Advertising*, Notice of Inquiry and Notice of Proposed Rule Making, 23 FCC Rcd 10682 (2008). Parties wishing to update the record on the issues of interactive television and embedded advertising in broadcasting and cable programming may file *ex parte* submissions in those proceedings.

[63] *See* 47 U.S.C. § 303a; *see also* 47 C.F.R. § 25.701(e); *Implementation of Section 25 of the Cable Television Consumer Protection and Competition Act of 1992, Direct Broadcast Satellite Public Interest Obligations*, Sua Sponte Reconsideration, 19 FCC Rcd 5647, 5668 (2004) (extending commercial limits rules to DBS operators). Certain changes in the commercial limits that have been applied to commercial television licensees and cable operators do not currently apply to DBS providers. *See 2004 Order and FNPRM*, 19 FCC Rcd at 22968, ¶ 73 (pending NPRM proposing to apply the revised definition of commercial matter and the restriction on the display of (continued….)

addition, the Commission requires broadcasters to use separations or "bumpers" between programming and commercials to assist children in distinguishing between advertisements and program content.[64] We invite information about the effectiveness of these rules in limiting commercial material viewed by children on television and how they might be improved.

38. The CTA's commercial limits apply only to broadcast, cable, and satellite television. To what extent are children exposed to excessive and exploitative advertisements on media other than television? What actions, if any, should government take to create incentives to limit the exposure of children to advertisements and to promote associated policies, such as the separations policy, on these other media? Are there examples of voluntary industry efforts to limit the exposure of children to advertisements on these other media? Have these efforts been successful?

39. The role of advertising in the spread of childhood obesity also warrants further study. The Commission has participated in the Task Force on Media and Childhood Obesity, which included representatives from the media, advertising, food, and beverage industries, along with consumer advocacy groups, healthcare experts, and academics.[65] The Task Force met in an effort to examine the impact of media on childhood obesity and to explore voluntary recommendations to address the phenomenon. In addition, the Better Business Bureau has created the Children's Food and Beverage Advertising Initiative to provide food and beverage advertisers with a self-regulation mechanism for advertisements aimed at children.[66] The Initiative is aimed at "shifting the mix of advertising messaging directed to children under 12 to encourage healthier dietary choices and healthy lifestyles."[67] Have these voluntary efforts to curtail advertising of unhealthy food to children proven effective? Do these commitments extend beyond television to other media platforms, such as the Internet and mobile devices? Are additional actions needed to address these concerns?

40. We invite comment also on the extent to which parents are concerned about exposure of children to inappropriate content within advertisements on various media, such as offensive language, sexual content, and violence.[68] To what extent are commercials containing inappropriate content aired during children's television programming or during general audience programming that may be viewed by children, such as sports programming? Is it feasible to block advertisements that may be inappropriate for children on various media platforms? What are the costs and benefits? What likely economic impact would this have on advertiser-supported media? If the benefits outweigh the costs, what actions could government or industry take to ensure that children are not exposed to inappropriate content? What incentives could the government provide to encourage age-appropriate advertising practices? One

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commercial website information to DBS providers). For the purposes of the commercial limits rule, "children's programming" is defined as "programs originally produced and broadcast primarily for an audience of children 12 years old and younger." 47 C.F.R. §§ 73.670 note 2, 76.225 note 2; *see also* supra note 35 (discussing definition of "core programming").

[64] *See Policies and Rules Concerning Children's Television Programming,* Report and Order, 6 FCC Rcd 2111, 2118 (1991), *recon. granted in part*, 6 FCC Rcd 5093 (1991). In addition, the Commission considers any children's programming associated with a product, in which commercials for that product are aired, to be a "program length commercial." *See id.* at 2117-18.

[65] *See Brownback, FCC Announce Media Task Force Participants*, Press Release (Jan. 23, 2007) (available at http://brownback.senate.gov/pressapp/record.cfm?id=267849).

[66] *See About the Initiative* (available at http://www.bbb.org/us/about-children-food-beverage-advertising-initiative/).

[67] *Id.*

[68] *See, e.g.*, Letter from Susan Linn, Campaign for a Commercial-Free Childhood, to Marlene H. Dortch, Secretary, FCC, MB Docket No. 09-26 (Aug. 4, 2009) (expressing concern with the marketing of violent PG-13 movies to children).

concern raised previously is the airing during children's television programming of promotions for upcoming television programs that may themselves contain inappropriate content.[69] We note that the Commission's definition of "commercial matter" for purposes of the commercial time limits may discourage the airing of these inappropriate promotional materials.[70] Specifically, the definition of "commercial matter" includes all promotions of television programs or video programming services other than "children's or other age-appropriate programming appearing on the same channel or promotions for children's educational and informational programming on any channel."[71] Accordingly, nonexempted promotional materials aired during programming produced for children age 12 and younger must be counted as commercial time. Has this rule limited the exposure of young children to inappropriate promotional materials during children's television programming?

3. Protecting Children from the Risks

41. Through household media rules and parental control tools, parents have some ability today to protect children from the risks of electronic media use. As discussed below, we seek comment on the level of awareness among parents of these protections and how effective these tools have been in combating risks posed by media consumption. We recognize that these issues may not be resolved solely by technology solutions. Accordingly, we also seek comment on non-technological solutions that will help protect children. In assessing these protections, we urge commenters to consider the impact of media convergence. While media convergence has many benefits, it may also make it more difficult for parents to protect their children from the risks of media exposure. For example, content that parents may block via the V-chip on the home television set, such as a program that is rated TV-14, may be freely accessible to their children on the Internet. Moreover, while indecency regulations apply to radio and television broadcasting, subscription services have generally received different regulatory treatment, requiring parents to take additional actions to protect children when using these services. In addition, children can now access television programming and the Internet on their mobile devices outside the home, where no parent is present. How does the mobile nature of media today affect the ability of parents to monitor their children's media consumption? What strategies have parents used to monitor their children's media exposure outside of the home? Have these strategies been effective? Is there more that government or industry should do to keep pace with this convergence and increase parents' ability to control the content to which their children are exposed? How can or should current laws be updated to reflect this convergence and to keep pace with changes in technology?

42. We also note that household media rules and parental control technologies require parental involvement in their children's media use. Some parents, however, may be unaware of the risks from electronic media use or choose not to be engaged in their children's media use. Because household media rules and parental control tools will not protect children of these parents, they face increased risk of harm in the digital world. We invite comment on what can or should government or industry do to protect these children from that harm. Is teaching media literacy to children in schools starting at a young age, as discussed further below, the best way to protect these children? In addition, as children grow older, they may become more media savvy than their parents and may be able to circumvent controls put in place by their parents. What options are there to protect these children from the risks of exposure to electronic media?

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[69] *See 2004 Order and FNPRM*, 19 FCC Rcd at 22964-65.

[70] *See* 47 C.F.R. §§ 73.670 note 1, 76.225 note 1; *see also Children's Television Obligations of Digital Television Broadcasters*, Second Order on Reconsideration and Second Report and Order, 21 FCC Rcd 11065, 11084 (2006) ("*2006 Order*").

[71] *See* 47 C.F.R. §§ 73.670 note 1, 76.225 note 1.

a. Household Media Rules

43. One means for protecting children from the risks of electronic media consumption is for parents to establish rules governing their children's media use ("household media rules").[72] What studies describe the extent to which parents have established and implemented household media rules?[73] Have these strategies been successful in protecting children?[74] How can household media rules protect children when they are using technologies outside the home, such as mobile devices? Are different strategies required for newer media, such as texting and social networking sites, than for more traditional media, such as television? Are there particular rules or strategies that can serve as best practices for particular media or across media? Are there resources for parents to learn more about establishing and implementing household media rules?

b. Technology and Parental Control Tools

44. Another way to protect children from the risks of electronic media consumption is through the use of parental control technologies. In the CSVA Report, we identified a wide range of parental control tools that exist and are available today with respect to over-the-air television, cable and satellite television, audio-only programming, wireless services, non-networked devices such as DVD players, video games, and the Internet.[75] We found that the record in that proceeding indicated that no single parental control technology available today works across all media platforms.[76] Moreover, even within each media platform, we found that the available technologies vary greatly with respect to certain

[72] *See, e.g.,* Adam Thierer, *Parental Controls & Online Child Protection: A Survey of Tools and Methods Version 4.0* (Summer 2009) (available at http://www.pff.org/parentalcontrols/), at 25-43 (stating that household media consumption rules can be grouped into four general categories: (i) "where" rules; (ii) "when and how much" rules; (iii) "under what conditions" rules; and (iv) "what" rules) ("Thierer Report").

[73] For example, a 2007 study conducted by the Kaiser Family Foundation found that 65 percent of parents surveyed said they "closely" monitor their children's media use. *See 2007 Kaiser Family Foundation Study* at 1. Parents said they used a variety of tools to help them monitor their children's media use, including setting rules about when children can use media and what channels they can watch and by keeping the television and/or computer in a public space in the home. *See id*. at 1, 8. According to data collected in 2004 by the U.S. Census Bureau, 47 percent of teenagers were subject to restrictions imposed by their parents on what, when, and for how long they watched television, up from 40 percent in 1994. *See* U.S. Census Bureau, *Parents More Active in Raising Their Children; More Children Get Television Restrictions* (Oct. 31, 2007) (available at http://www.census.gov/Press-Release/www/releases/ archives/children/010850.html). The study also found that (i) 68 percent of three-to-five-year-olds were subject to restrictions imposed by their parents on what, when, and for how long they watched television, up from 54 percent in 1994; and (ii) 71 percent of six-to-eleven-year-olds were subject to restrictions imposed by their parents on what, when, and for how long they watched television, up from 60 percent in 1994. *See* U.S. Census Bureau*, A Child's Day: 2004 (Selected Indicators of Child Well-Being)* (2007) (available at http://www.census.gov/ population/socdemo/well-being/2004_detailedtables/04tabD12.xls), at Table D12.

[74] For example, a 2005 survey of children – rather than parents – concluded that parents do not always enforce rules about television use. According to the survey, 46 percent of children said their parents had rules about television viewing, but only 20 percent said the rules were enforced most of the time, and 23 percent said the rules were enforced some, little, or never. *See Generation M: Media in the Lives of 8-18Year-Olds* at Appendix 3.3.

[75] *See generally* CSVA Report. With respect to broadcast television and radio, the CSVA Report further explained that government indecency regulation, which is mandated by 18 U.S.C. § 1464 and section 16(a) of the Public Telecommunications Act of 1992, 106 Stat. 954, 47 U.S.C. § 303 nt., also protects children from some risks posed by media consumption. *See* CSVA Report at ¶ 14.

[76] *See* CSVA Report at ¶ 5.

criteria.[77] Generally, we identified five areas for further study with respect to parental control tools across media platforms: (i) level of consumer awareness of such tools;[78] (ii) pace of adoption;[79] (iii) ease of use;[80] (iv) familiarity with and understanding of ratings systems;[81] and (v) pace of innovation.[82] As discussed below, we seek comment on each of these issues in order to increase our understanding of how parental control technologies can best be used to protect children in an evolving electronic media marketplace.

45. *Level of Consumer Awareness of the Tools*. We seek comment on the extent to which parents are aware of specific parental control technologies across all media platforms.[83] To what extent does the level of awareness differ among media? What additional promotional and educational efforts would be effective in increasing awareness of these parental control technologies? In the CSVA Report, we noted that estimates of awareness of the V-chip among parents vary from 49 percent to 69 percent.[84] We seek comment on what actions, if any, should Congress, the Commission, or industry take to increase awareness of the V-chip as a tool to protect children from inappropriate content on broadcast television.[85] Would a joint effort between the Commission and industry similar to that undertaken in connection with the DTV transition be effective in familiarizing parents with the available tools? If so, how should such an outreach program be most effectively structured?

46. *Pace of Adoption*. We seek comment on the extent to which parents are adopting specific parental control technologies.[86] To the extent that the adoption rate is low, what reasons, if any, besides lack of awareness keep parents from adopting parental control technologies, and to what extent do these reasons differ among media?[87] For example, in the CSVA Report, we noted that adoption of control

[77] *See id*. These criteria include (i) cost to consumers; (ii) level of consumer awareness/promotional and educational efforts; (iii) adoption rate; (iv) customer support; (v) ease of use; (vi) means to prevent children from overriding parental controls; (vii) blocking content/black listing; (viii) selecting content/white listing; (ix) access to multiple ratings systems; (x) parental understanding of ratings systems; (xi) reliance on non-ratings-based system; (xii) ability to monitor usage and view usage history; (xiii) ability to restrict access and usage; (xiv) access to parental controls outside of the home; and (xv) tracking. *See id*. at ¶¶ 187-204.

[78] *See id*. at ¶ 206.

[79] *See id*. at ¶ 207.

[80] *See id*. at ¶ 208.

[81] *See id*. at ¶ 209.

[82] *See id. at* ¶ 210.

[83] *See id*. at ¶ 206.

[84] *See id*. at ¶ 16.

[85] *See id*. at ¶¶ 47-48 (discussing options such as including a V-chip button on television remote controls that take consumers directly to the V-chip menu; including an insert, separate from the owner's manual, in the packaging for TV sets that clearly explains how to program the V-chip; offering "family friendly" sets that are already pre-programmed at a given V-chip setting); *id*. at ¶¶ 53-55 (discussing ways to educate parents about the V-chip in order to increase V-chip use and awareness).

[86] *See id*. at ¶ 207.

[87] For example, with respect to the V-chip, the CSVA Report noted that a lack of understanding of the ratings system and difficulty in using the V-chip are two factors limiting parental adoption of the V-chip. *See id.* at ¶¶ 19, 25, 27. The CSVA Report noted that data regarding other technologies was lacking. *See id*. at ¶ 207.

technologies may be greater for the Internet than for broadcasting and other traditional media.[88] We invite comment on the reasons for this difference in adoption rates. We also seek comment on whether and, if so, what actions could be taken to increase adoption of parental control technologies. In the CSVA Report, we noted that estimates of V-chip adoption vary from 5 percent to 16 percent of parents.[89] We seek comment on what actions, if any, Congress, the Commission, or industry should take to increase adoption of the V-chip.[90] In this regard, we seek data and information about whether parents have doubts about the reliable application of the existing "TV Parental Guidelines" industry rating system by programmers or other responsible entities and, if so, whether those doubts affect parents' interest in using V-chip technology. Would improvements in the operation and visibility of the industry's Oversight Monitoring Board, which fields complaints about ratings, be helpful in addressing such doubts?

47. *Ease of Use*. We seek comment on what, if any, features of specific parental control technologies parents find easy to use and helpful, and what features they find confusing and difficult to use.[91] We seek comment on whether and, if so, how these technologies could be improved to make them easier for parents to use.

48. *Familiarity with and Understanding of the Ratings System*. We seek comment on whether parents are familiar with and understand the various ratings systems currently in use and the way content is evaluated for blocking and other purposes in conjunction with specific parental control technologies.[92] To the extent the level of familiarity or understanding is low, we seek comment on whether that lack of familiarity or understanding is impeding use of particular parental control technologies. We also seek comment on whether and, if so, what steps can be taken to increase familiarity and understanding of the various ratings systems. Are there studies or data from other countries that have ratings systems or other parental control technologies? In the CSVA Report, we noted studies indicating that many parents do not understand the existing TV Parental Guidelines used in conjunction with the V-chip.[93] We seek comment on ways to increase understanding of the TV Parental Guidelines.[94] Would the creation of a uniform rating system that would apply to various platforms be an appropriate objective? If so, how should such a system be structured and administered?

49. *Pace of Innovation*. We seek comment on the pace of innovation with respect to parental control technologies.[95] Is innovation in parental control technologies proceeding at a pace consistent with

[88] *See id.* at ¶ 6. For example, the CSVA Report noted that estimates of V-chip usage vary from 5 percent to 16 percent of parents and one study concluded that only 17 percent of parents use cable parental controls, whereas another study found that half of parents have filtering or monitoring software installed on computers used by teens. *See id.* at ¶¶ 6, 17, 57, 145, 151. The CSVA Report noted that data regarding other technologies was lacking. *See id.* at ¶ 6.

[89] *See id.* at ¶ 17.

[90] *See id*. at ¶ 31 (discussing whether improving the accuracy and transparency of the existing TV Parental Guidelines would increase V-chip usage, including through the following means: (i) action by the Monitoring Board, including through its handling of complaints about inappropriate ratings; (ii) increasing the size of the ratings icon on the screen, lengthening the time the icon remains on the screen, and playing an aural tone when the icon appears; (iii) adding more content descriptors to the TV ratings; and (iv) using alternative ratings systems); *see also supra* note 85.

[91] *See* CSVA Report at ¶ 208.

[92] *See id*. at ¶ 209.

[93] *See id*. at ¶ 25.

[94] *See id*. at ¶¶ 53-55 (discussing ways to educate parents about the TV Parental Guidelines).

[95] *See id.* at ¶ 210.

other consumer technologies (*e.g.*, computers, mobile phones and broadband devices)? We also seek comment on whether innovation in parental control technologies is proceeding at a pace that ensures that new parental control features and devices are being developed at a rate that meets evolving parental and caregiver needs. What is driving innovation in parental control technologies – is it the force of parental concerns, or is it simply the pace of innovation in media technologies themselves? In the CSVA Report, we noted a number of areas for further study regarding innovation with respect to V-chip technology.[96] Can the V-chip be used to select or "white list" television programs identified as "core" educational programs? How feasible would it be to add this function to the V-chip and what would be the costs and benefits of doing so? Can the current V-chip technology support an "open V-chip" that would allow parents to select from multiple ratings systems? Is further investment in the V-chip warranted, given the relatively low use of the V-chip and the increasing number of alternative parental control tools available to pay TV subscribers? What steps, if any, should Congress, the Commission, or industry take to give parents access to multiple content ratings for television in addition to ratings assigned by content producers?

D. Media Literacy

50. Some experts view increased media literacy and education for parents, teachers, and children as a key way to enable children to enjoy the benefits of electronic media while avoiding the potential harms.[97] We seek comment on how great a role media literacy can play in this respect and what actions can be taken to promote media literacy.

1. Is There a Minimum Necessary Level of Media Literacy?

51. We seek comment on whether there is a minimum level of media literacy that parents, teachers, and children must have to ensure that children can participate effectively in modern society and enjoy the benefits of electronic media while avoiding the potential harms. By way of example, some of the necessary elements of media literacy might include knowledge of: (i) the various types of electronic media; (ii) the benefits of the electronic media landscape; (iii) how to access beneficial content; (iv) the risks of the electronic media landscape; (v) how to avoid these risks (for parents, this may include household media rules and use of parental control technologies; for children, this may include the critical thinking skills needed to make smart choices); (vi) how to distinguish between program content and

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[96] *See id*. at ¶ 35 (raising issues for further study regarding use of the V-chip to block inappropriate television commercials); *id*. at ¶ 38 (raising issues for further study regarding use of the V-chip as an affirmative tool to "white list," or select, educational and informational programming for children); *id*. at ¶¶ 39-46 (raising issues for further study regarding independent ratings systems).

[97] *See* Dr. Tanya Byron, *Safer Children in a Digital World: the Report of the Byron Review* (2008) (available at http://www.dcsf.gov.uk/byronreview/), at 8, 107-17 (advocating the formation of an information and education strategy to raise the understanding of Internet safety among children, parents, and other responsible adults) ("Byron Review"); Common Sense Media, *Digital Literacy and Citizenship in the 21st Century: Educating, Empowering, and Protecting America's Kids* (June 2009) (available at http://www.commonsensemedia.org/digitalliteracy), at 6-7 (advocating media education for parents, teachers, and children); ISTTF Report at 6 ("greater resources should be allocated: to schools, libraries, and other community organizations to assist them in adopting risk management policies and in providing education about online safety issues"); Committee to Study Tools and Strategies for Protecting Kids From Pornography and Their Applicability to Other Inappropriate Internet Content, *Youth, Pornography, and the Internet* (Dick Thornburgh & Herbert S. Lin eds., National Academy Press 2002), at 218-57 ("[T]he committee has found that social and educational strategies are foundational for children's safe, effective, and appropriate use of the Internet.") ("NAS Report"); Thierer Report at 16, 145-68 ("[R]egardless of how robust they might be today, parental control tools and rating systems are no substitute for education—of both children and parents. . . . And government can play an important role by helping educate and empower parents and children to help prepare them for our new media environment.").

advertising; and (vii) the privacy implications of using various media. Are all of these elements necessary to a minimal level of media literacy? Are there additional necessary elements? Are there studies of what parents, teachers, and children must know to be sufficiently media literate?

2. Teaching Media Literacy to All Stakeholders

52. We seek comment on the availability and sufficiency of media literacy training for parents, teachers, and children. To what extent is media literacy a required part of school curricula throughout the nation?[98] Is media literacy education in schools particularly critical for those at-risk children whose parents are either unaware of the benefits and harms of media consumption or choose not to become involved in monitoring their children's media use?[99] At what age should children begin to be taught media literacy? Is it critical for such education to begin early in a child's development? What roles do the Department of Education and other government or private organizations play in this area? Are there studies or data on the effectiveness of media literacy education and which approaches work best for particular demographics? What are current best practices on teaching media literacy? Are there limitations on the value of teaching media literacy to children? For example, are there certain issues, such as the ability to understand persuasive intent in advertising, that children under a certain age lack the cognitive ability to comprehend?[100] We also note that schools are responsible for students' media consumption while they are in school. How do schools determine whether to use media literacy and/or control tools to protect children while consuming media in schools? What factors do schools consider in determining what is appropriate material for children to access? To what extent are schools blocking content that might be beneficial for children? Are there any studies or data available on the impact on long-range educational and/or career opportunities from limiting children's access to online resources? Is there anything that can and should be done to assist teachers and schools in managing students' media consumption and promoting students' media literacy while they are in school? How are parents and teachers taught media literacy? Are there examples of media literacy programs that could serve as a model for teaching parents and teachers? What role could or should the government, and the Commission in particular, play in ensuring that children, educators, and parents receive appropriate media literacy training? What role should the media industry play in this area?

3. Resources on Media Literacy

53. While there is a significant amount of information on media literacy available today, it is unclear whether parents, teachers, and children are aware of this information or whether they can find this information easily.[101] Is there a single source today that pulls together existing information about media

[98] We note that several states include online safety as a part of their required school curriculum. *See, e.g.,* VA. CODE ANN. § 22.1-70.2 (Michie 2003); CAL. EDUC. CODE § 51871.5 (West 2008); 105 ILL. COMP. STAT. 5/27-13.3 (2009). In addition, The Children's Internet Protection Act ("CIPA"), as amended by Section 215 of the Broadband Data Improvement Act, requires schools and libraries that receive E-rate funds to have an Internet safety policy in place that, among other things, educates minors about "appropriate online behavior, including interacting with other individuals on social networking websites and in chat rooms and cyberbullying awareness and response." *See* Broadband Data Improvement Act, Pub. L. 110-385, § 215, 122 Stat. 4096, 4104 (2008).

[99] *See* Byron Review at 126 ("Schools and children's services have the potential to deliver e-safety support to all children, including those who do not receive it at home.").

[100] *See, e.g.*, *Report of the American Psychological Association Task Force on Advertising and Children*, Summary of Findings and Conclusions at 4-5; Calvert, *Children as Consumers: Advertising and Marketing,* at 206, 215, 217.

[101] We note that many organizations provide information on media literacy training. For example, the Center for Media Literacy makes available its "CML MediaLit Kit" (http://www.medialit.org/bp_mlk.html), which it describes as "an accessible, integrated outline of the established foundational concepts and implementation models needed to assist schools and districts in organizing and structuring teaching activities using a media literacy lens." Common Sense Media also offers extensive information on media literacy, including "Common Sense Schools: Parent and (continued….)

literacy?[102] What are the available sources of such information? Should the government, and the Commission in particular, seek to establish an on-line resource? If so, how can the Commission best promote this resource so that parents and children are aware of it? Are there other governmental or private organizations that are working on or have already prepared such on-line resources? Are they comprehensive? Do they cover the latest technologies?

4. Other Outreach

54. We seek comment on other efforts that would be effective in promoting media literacy among parents, teachers, and children. Some examples of these efforts might include promotional campaigns, outreach, and public service announcements ("PSAs").[103] What contribution could these efforts make toward promoting media literacy?

E. Coordinating Government Efforts

55. We recognize that other governmental activities are underway that address one or more of the issues raised here. For example, in the Broadband Data Improvement Act, Congress directed the National Telecommunications and Information Administration ("NTIA") to establish the Online Safety and Technology Working Group ("OSTWG") to examine, among others things, industry efforts to promote online safety through educational efforts, parental control technology, and blocking and filtering software.[104] The same law requires the Federal Trade Commission ("FTC") to carry out a nationwide program to increase public awareness and provide education about strategies to promote the safe use of

(Continued from previous page)
Teacher Media Education Program." *See* http://www.commonsensemedia.org/schools. The National Institute on Media and the Family makes available media literacy training materials that it claims "parents and professionals need to make informed and proactive media choices." *See* http://www.mediafamily.org/what_we_do/index.shtml. *See also* NetSmartz Internet Safety Presentations, http://www.netsmartz.org/Presentations/; CyberSmart!, http://www.cybersmartcurriculum.org/safetysecurity/; i-SAFE Inc., http://www.isafe.org/; iKeepSafe.org, http://www.ikeepsafe.org/.

[102] *See* Byron Review at 8, 123-25 (concluding that parents are overwhelmed by the amount of information available regarding Internet safety and advocating the development of a "one stop shop" to help the public navigate this information).

[103] *See id*. at 8, 118-121 (advocating the use of a social marketing campaign on Internet safety, combining blanket and targeted messages delivered through a wide range of media channels); NAS Report at 254-56; Thierer Report at 150-57 (advocating use of public and parental awareness campaigns on parental controls and online child protection efforts).

[104] *See* Broadband Data Improvement Act, Pub. L. 110-385, § 214(b), 122 Stat. 4096, 4104 (2008). Specifically, OSTWG is charged with reviewing and evaluating the following issues:

> (1) the status of industry efforts to promote online safety through educational efforts, parental control technology, blocking and filtering software, age-appropriate labels for content or other technologies or initiatives designed to promote a safe online environment for children;
>
> (2) the status of industry efforts to promote online safety among providers of electronic communications services and remote computing services by reporting apparent child pornography under section 13032 of title 42, United States Code, including any obstacles to such reporting;
>
> (3) the practices of electronic communications service providers and remote computing service providers related to record retention in connection with crimes against children; and
>
> (4) the development of technologies to help parents shield their children from inappropriate material on the Internet.

See id. The OSTWG held its first meeting on June 4, 2009 and must report its findings and recommendations to Congress within one year of the first meeting (*i.e.*, by June 4, 2010).

the Internet by children, including encouraging best practices for Internet safety.[105] The Adam Walsh Child Protection and Safety Act of 2006 authorizes the Attorney General, in consultation with the National Center for Missing and Exploited Children, to carry out a public awareness campaign to demonstrate to children, parents, and community leaders how to protect children better on the Internet.[106] The same law directs the Attorney General to make grants to States, units of local government, and nonprofit organizations to establish programs for educating children and parents in the best ways for children to be safe when on the Internet.[107] Pursuant to the Children's Online Privacy Protection Act, the FTC has adopted rules detailing, among other things, the responsibilities of website operators that seek to collect information from children under the age of 13.[108]

56. The Commission recently partnered with OnGuard Online, a partnership with 11 federal agencies and 17 groups concerned with safety, hosted by the FTC, which provides practical tips "to help you be on guard against Internet fraud, secure your computer, and protect your personal information."[109] OnGuard Online provides educational material, videos, and games on a wide range of subjects including email scams, identity theft, kids privacy, social networking sites, spyware, and phishing. Much of the material can be downloaded, printed, embedded in third party websites, and otherwise widely used and distributed. The Commission looks forward to participating in and contributing to OnGuard Online.

57. We seek comment on any additional efforts underway, at either the federal or state level, that address the issues raised in this NOI. What can the Commission do to assist these existing governmental efforts? Are there areas that the government is not currently addressing that the Commission should address? Which of the ongoing governmental activities encompass media platforms other than online media, including television, radio, audio devices, and video games?

F. Legal Authority

58. We note that the Commission has varying degrees of statutory authority with respect to different media. We ask commenters, in proposing any action, to discuss the source and extent of the Commission's authority to take the action, or whether new legislation would be needed to authorize such action. In addition, as discussed above, commenters should discuss the compatibility of any proposed action with the First Amendment.

III. PROCEDURAL MATTERS

A. Ex Parte Presentations

59. This is an exempt proceeding in which ex parte presentations are permitted (except during the Sunshine Agenda period) and need not be disclosed.[110]

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[105] *See id*. at § 212, 122 Stat. at 4103. The Department of Education, Department of Justice ("DOJ"), and Federal Bureau of Investigation ("FBI") have web sites addressing Internet safety for children. *See* U.S. Department of Education, Internet Safety, http://www.ed.gov/about/offices/list/os/technology/safety.html; Project Safe Childhood, US Dept. of Justice, http://www.projectsafechildhood.gov/; A Parent's Guide to the Internet, http://www.fbi.gov/publications/pguide/pguidee.htm.

[106] *See* The Adam Walsh Child Protection and Safety Act of 2006, Pub. L. No. 109-248, § 629, 120 Stat. 587, 640 (2006).

[107] *See id*. at § 630, 120 Stat. at 640-41.

[108] *See* 15 U.S.C. §§ 6501-6506; 16 C.F.R. pt. 312.

[109] About Us - OnGuard Online (available at http://www.onguardonline.gov/about-us/overview.aspx).

[110] *See* 47 C.F.R. § 1.1204(b)(1).

B. Comment Filing Procedures

60. Pursuant to sections 1.415 and 1.419 of the Commission's rules, 47 C.F.R. §§ 1.415, 1.419, interested parties may file comments and reply comments on or before the dates indicated on the first page of this document. 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.[111]

- 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.

    - In completing the transmittal screen, filers should include their full name, U.S. Postal Service mailing address, and the applicable docket or rulemaking number. 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 directions will be sent in response.

- Paper Filers: Parties who choose to file by paper must file an original and four copies of each filing. If more than one docket or rulemaking number appears in the caption of this proceeding, filers must submit two additional copies for each additional docket or rulemaking number.

  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.

    - 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, DC 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, Express, and Priority mail should be addressed to 445 12th Street, SW, Washington DC 20554.

61. People with Disabilities: To request materials in accessible formats for people with disabilities (braille, large print, electronic files, audio format), send an e-mail to fcc504@fcc.gov or call the Consumer & Governmental Affairs Bureau at 202-418-0530 (voice), 202-418-0432 (tty).

62. Comments and reply comments will be available for public inspection during regular business hours in the FCC Reference Center, Federal Communications Commission, 445 12th Street, S.W., CY-A257, Washington, D.C., 20554. These documents will also be available via ECFS. Documents will be available electronically in ASCII, Word 97, and/or Adobe Acrobat.

[111] *See Electronic Filing of Documents in Rulemaking Proceedings*, 63 FR 24121 (1998).

63. *Additional Information*. For additional information on this proceeding, contact David Konczal, David.Konczal@fcc.gov; Kim Matthews, Kim.Matthews@fcc.gov; or Holly Saurer, Holly.Saurer@fcc.gov; of the Media Bureau, Policy Division, (202) 418-2120.

IV. ORDERING CLAUSES

64. Accordingly, **IT IS ORDERED**, pursuant to the authority contained in Sections 1, 4(i) & (j), 303(r), and 403 of the Communications Act of 1934, 47 U.S.C §§ 151, 154(i) & (j), 303(r), and 403, that this *Notice of Inquiry* **IS ADOPTED**.

FEDERAL COMMUNICATIONS COMMISSION

Marlene H. Dortch
Secretary

STATEMENT OF
CHAIRMAN JULIUS GENACHOWSKI

Re: *Empowering Parents and Protecting Children in an Evolving Media Landscape, MB Docket No. 09-194*

Today's Notice comes almost 20 years after enactment of the Children's Television Act (CTA). The CTA was enacted by Congress in 1990 to serve the dual purposes of promoting educational and informational programming for children and placing limits on commercial advertising to which children are exposed while watching TV.

As I stated in my testimony before the Senate in July, revisiting the Act after almost two decades, three points stand out: First, children remain our most precious national resource and it is as essential as ever to ensure that our kids are educated, healthy, and prepared for the 21st century, and that they are protected from commercial exploitation.

Second, television continues to have a powerful effect on our children, and broadcast television remains a unique medium, the exclusive source of video programming relied upon by millions of households, and a very significant source for millions of others. The Commission's responsibility to enforce the Children's Television's Act remains vital.

Third, much has changed since the Act was passed in 1990. The bottom line is that twenty years ago, parents worried about one or two TV sets in the house. Today, children have access to a variety of media platforms, digital TV, computers, mobile phones and smart phones to name a few, and interact with them in ways that could not have been imagined in 1990. Multi-channel video programming has grown dramatically, significantly expanding the programming choices of viewers who can afford pay television. The Internet has vastly proliferated, with younger Americans as the leading edge. Video games have become a prevalent entertainment source in millions of homes and a daily reality for millions of kids. Mobile services have increased significantly, with mobile devices becoming more and more commonplace for kids.

I'm hopeful that the evolving media landscape will produce innovation and new business models to increase the amount of educational programming and content available to all children, and enhance the ability of parents to pick and choose. Studies show that television – like Sesame Street, Sprout, and others -- can benefit children. The Notice asks whether the Commission's current rules implementing the CTA are effective in promoting the availability of educational and information content for the child audience and seeks comment on the quality and amount of such programming, among many other questions.

Today's Notice also comes after our recent report on the Child Safe Viewing Act. The proliferation of media devices available to children creates important concerns about the content to which children have access and the impact of that content.

This Notice of Inquiry recognizes the importance of undertaking a comprehensive approach to assessing how children can best be served in the digital media landscape. It will examine both the risks and the benefits of emerging media technologies. We are seeking data and comments that will help us address these questions.

I am a firm believer in the role technology can play in people's lives, and this is especially applicable to children. But the explosion of new technologies has also significantly increased the

availability of inappropriate content and elevated parents' concerns. The vital role of government in this media environment is therefore to empower parents and protect children, while honoring and abiding by the First Amendment. Specifically, the Commission should work to ensure that parents have access to a full range of information and tools in exercising their essential responsibilities. They should easily be able to find those tools, to learn about programming choices that educate, entertain and inform their children, and to take action they deem appropriate. In a digital world, technology can and should be part of the solution.

But the Commission must also remain cognizant of the responsibilities and opportunities for the private sector as well. This media landscape has the potential to produce innovation and new business models to increase the amount of educational programming and content available to all children, while enhancing parents' ability to pick and choose. We remain optimistic that the same ingenuity that has driven some of the remarkable innovations in media thus far will also be the creative spark that leads to new and powerful tools that will help parents protect their children and provide them with access to educational resources and programming options that best suit their children's needs.

The challenges of an emerging media landscape will only become more complex as technology continues to evolve, so it is essential that we enable parents to assist their children in harnessing the benefits of emerging media while protecting them from harmful content. Accordingly, we must also determine whether improved media literacy can assist parents in this regard and whether existing literacy resources are sufficient to achieve these ends. Knowledge is power, so the more we can do to help parents navigate this landscape the better.

The information that we are seeking is broad in its scope and in its range, but this data will help drive policy that will allow us to derive the maximum benefits from these emerging media technologies. I am optimistic that this will help foster public and private solutions to the challenges that these technologies present.

STATEMENT OF
COMMISSIONER MICHAEL J. COPPS

Re: *Empowering Parents and Protecting Children in an Evolving Media Landscape*, *MB Docket No. 09-194*

Today, the Commission initiates an important inquiry on ways to protect America's children in our rapidly evolving media ecosystem. I applaud the efforts of Chairman Genachowski to prioritize our assessment of these issues. In the Commission's recently released *CSVA Report*, we acknowledged the plethora of advanced blocking technology and other retail tools available to parents to prohibit or, at best, discourage their children's access to undesirable media content. The *Report* concluded, however, that no single tool exists across all media platforms. By this NOI, we hope to glean more granular data on the reasons why parental control technologies vary so widely across media platforms, particularly when so much broadcast content is migrating to the Internet and portable devices. It is also apparent from the record that parents are still seeking additional media literacy information and tools, perhaps even including additional governmental action or voluntary industry efforts, to support their own steps to protect their children. The NOI raises a range of issues and solicits data, including data from other countries, to aid the Commission in devising its next steps in this process.

This inquiry also will inform us about the level of educational or other beneficial content available for children today. Many broadcasters have found creative, intelligent ways of bringing informative programming, especially that which is produced locally, to their kid audiences. We applaud those initiatives and encourage other broadcasters and cable operators to follow suit.

The Commission's rules to implement the Children's Television Act (CTA) require television licensees to air at least three hours per week of programming specifically designed to serve the educational and informational needs of children. General compliance with CTA guidelines aside, we need a better sense of the quality of core programming being provided by TV broadcasters, especially with the multicast streams available from digital transmission. How are licensees using these additional broadcast streams in ways that further the informational and educational needs of the children in their local areas? How should these issues be evaluated in the context of license renewal? These are worthwhile questions and this NOI seeks answers. I note, however, that the Commission sought comment in 2007 on the status of children's TV programming and broadcasters' compliance with CTA.[1] The proceeding is pending. I am hopeful that the inquiry we begin today will result in a more timely follow-up to undertake any actions needed to improve the programming available for children in today's media marketplace. I note also that the Commission has pending two further proceedings on children's media issues that address interactive and embedded advertising in television and in cable programming.[2] The critical issues raised in those proceedings may be ripe for Commission action now, and need not await the filing of comments in this NOI. I urge prompt review of the record in those proceedings to determine what actions the Commission can take that will protect children from inappropriate – and opaque – advertising content.

[1] *Commission Seeks Comment on the Status of Children's Television Programming,* MM Docket No. 00-167, Public Notice, 22 FCC Rcd 7267 (MB 2007).

[2] *Children's Television Obligations of Digital Television Broadcasters,* Report and Order and Further Notice of Proposed Rulemaking, 19 FCC Rcd 22943 (2004); *Sponsorship Identification Rules and Embedded Advertising,* Notice of Inquiry and Notice of Proposed Rule Making, 23 FCC Rcd 10682 (2008).

STATEMENT OF
COMMISSIONER ROBERT M. MCDOWELL

Re: *Empowering Parents and Protecting Children in an Evolving Media Landscape*, *MB Docket No. 09-194*

I support the Notice and hope that it elicits data and information beyond that which we compiled for our August 2009 report to Congress under the Child Safe Viewing Act. In particular, I will review with interest any research data that provides better insight as to why some parents have not adopted the blocking technologies that are now available in the marketplace. I also am pleased that the Notice calls for legal analysis – which has been lacking until this point – of the Commission's statutory and constitutional authority to take action on any recommendation for new regulation.

I thank the Media Bureau staff for its work on the Notice, and I look forward to reviewing the data and analyses that commenters submit.

STATEMENT OF
COMMISSIONER MIGNON L. CLYBURN

Re: *Empowering Parents and Protecting Children in an Evolving Media Landscape*, *MB Docket No. 09-194*

I am pleased that we have acted expeditiously to follow up on the report we issued to Congress pursuant to the Child Safe Viewing Act at the end of August. As we indicated in the Report, the record left substantial questions unanswered. We specifically noted that we could only make meaningful progress if we had a comprehensive understanding of why parental control technologies have not been widely adopted.

Today's Notice will help us build on our Report. I am particularly interested to learn about why the current regime designed to give parents the necessary tools to protect their children from harmful content has proved to be inadequate. I would like to hear from commenters who have ideas about ways in which we can simplify the process for parents in order to make education about these technologies a realistic endeavor. As the Commission learned during the DTV transition, it is essential to develop a streamlined system that can be understood by parents who do not have time to sort through myriad technologies, ratings systems, etc., in order to have the oversight they require and deserve in their own homes.

In addition to learning more about what we can do to help parents protect their children from potentially harmful content delivered through various media platforms, today's Notice also recognizes the need to maximize the potential benefits of our current media landscape. With the advent of new technologies, we have an opportunity to revisit the best ways to help parents and children take full advantage of the many avenues available for education. Any sound media policy concerning children will recognize that not only do we have a mission to empower parents to protect their children, but we also must help them understand the full panoply of positive options now available.

I believe that this Notice, along with workshops designed to hear from parents themselves struggling to keep up with each new generation of technology, can be of great value to the Commission. This topic is of utmost importance and I am eager to review what promises to be a thoughtful and wide-ranging record.

Thank you to the Media Bureau for all of its hard work on this Notice and its continued commitment to making sure that we find the best ways to empower today's parents to capitalize on what our current technologies have to offer in a safe and responsible manner.

STATEMENT OF
COMMISSIONER MEREDITH A. BAKER

Re: *Empowering Parents and Protecting Children in an Evolving Media Landscape, MB Docket No. 09-194*

I am pleased to support the release of this Notice of Inquiry. I have four step-daughters and feel very strongly that we need to better enable parents to protect their children from harmful content across all platforms. The Internet has opened up communications and made information more readily available in many positive ways. However, it is important for all parents to have the tools to shield their children from inappropriate material, and we must teach parents how to better use these tools. Current parental control technologies, blocking and filtering software and age-appropriate labels for content exist, but we need to work together to make them easier to use and used more often.

Together, we can fashion more technologically advanced mechanisms that will enable parents to protect their children from harmful content over any platform. With the active participation in this proceeding by all interested parties, we can provide assistance to allow parents to meet the increased challenges of raising children in our technologically evolving environment, incorporating state-of-the-art technologies and industry best practices. I look forward to working with those parties, the Chairman, my fellow Commissioners and our dedicated staff to achieve this important objective.