

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

In the Matter of	)	
	)	
Children’s Television Programming Rules	)	MB Docket No. 18-202
	)	
Modernization of Media Regulation Initiative	)	MB Docket No. 17-105
	)	
	)	

**REPLY COMMENTS OF THE  
NATIONAL ASSOCIATION OF BROADCASTERS**

In its further rulemaking notice in this proceeding, the Commission asked for additional comment on creating a framework under which a TV broadcaster could satisfy its children’s programming obligations, at least in part, by engaging in special efforts to produce or support educational and informational (E/I) programming aired on another station or stations in the same market.<sup>1</sup> The National Association of Broadcasters (NAB)<sup>2</sup> now responds to support the comments of the public television broadcasters, who persuasively argued that the FNPRM relies on an unduly narrow conception of the types of sponsorship efforts that should count under the FCC’s rules.<sup>3</sup>

Specifically, the public TV commenters objected to the FNPRM’s tentative conclusion that only those sponsorship efforts that resulted in the creation of new or the expansion of

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<sup>1</sup> *Children’s Television Programming Rules*, Report and Order and Further Notice of Proposed Rulemaking, MB Docket Nos. 18-202 & 17-105, FCC 19-67, at ¶¶ 75-83 (July 12, 2019) (FNPRM).

<sup>2</sup> NAB is a nonprofit association that advocates on behalf of local radio and television stations and broadcast networks before Congress, the Federal Communications Commission and other federal agencies, and the courts.

<sup>3</sup> Comments of American’s Public Television Stations, the Corporation for Public Broadcasting and the Public Broadcasting Service, MB Docket Nos. 18-202, 17-105 (Sept. 16, 2019) (PTV Comments).

existing core programs on noncommercial stations would count toward a broadcaster's children's TV obligations.<sup>4</sup> NAB agrees with commenters that this approach focusing solely on the quantity of programming is unnecessarily restrictive and is not the only (or even the best) way for a broadcaster to effectively and meaningfully support children's content on another in-market station. The PTV Comments offered numerous practical example of ways, beyond just increasing the amount, that broadcasters could financially support the accessibility, availability and technical quality of children's programming on noncommercial stations.<sup>5</sup> Particularly given that the public TV commenters believe it would be impractical to increase the quantity of children's E/I programming on most noncommercial stations, due to the vast amounts of children's content they already air,<sup>6</sup> the Commission needs to consider a broader approach to defining qualifying sponsorship efforts under its rules. NAB urges the Commission to adopt the public TV commenters' proposals.<sup>7</sup>

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<sup>4</sup> See PTV Comments at 2-5; FNPRM at ¶ 79.

<sup>5</sup> See PTV Comments at 3-4 (explaining that broadcasters, *inter alia*, could financially support noncommercial stations in technically upgrading their children's multicast channels; developing the technical capacity to pass through descriptive video services for their children's content; delivering their children's content to newer virtual MVPDs; delivering their signals to cable headends and receive facilities, especially if those headends are moved further away from the stations; or promoting their children's programming and services).

<sup>6</sup> The public TV commenters pointed out that noncommercial PBS stations air a minimum of seven hours per weekday of E/I programming on their main channel (and many of them air as much as 10 or 12 hours daily), in addition to generally broadcasting a 24/7 children's educational multicast channel. PTV Comments at 2-3 (also noting that these stations need time to air programming serving diverse viewers of all ages in their local communities).

<sup>7</sup> NAB also agrees that, in implementing the public TV commenters' sponsorship approach, the Commission should define the requisite funding level based on a "percentage of the sponsorship station's advertising revenues for the timeslot 'freed up' as a result of the sponsorship." PTV Comments at 5, quoting FNPRM at ¶ 78. As the PTV Commenters pointed out, this approach would enable a commercial station to decide whether it preferred to continue airing core programming or instead broadcast alternative programming and then donate a defined percentage of the resulting advertising revenue to a local noncommercial station to support its E/I programming. *Id.* at 5. Defining the requisite funding level in this manner seems the most straightforward and market-based approach among the FCC's

NAB observes, moreover, that the Children’s Television Act provides that the Commission may consider “any special efforts” by a licensee to “produce or support” E/I programming broadcast “by another station” in the licensee’s market in considering whether that licensee has fulfilled its children’s TV obligations.<sup>8</sup> As the public TV commenters noted, the Act does not require these sponsorship efforts to result in the creation of additional amounts of children’s content.<sup>9</sup> And neither does the Act limit sponsorship efforts to those supporting E/I programming on local *noncommercial* stations.<sup>10</sup> NAB therefore urges the Commission to increase the flexibility of its sponsorship framework by allowing special sponsorship efforts on in-market commercial, as well as noncommercial, stations, in accordance with the breadth of the statutory language. Given the public broadcasters’ doubts about increasing the amount of children’s programming on most noncommercial stations, a commercial TV station interested in sponsoring the creation of additional core programming would likely need to sponsor that programming on another in-market commercial station.

To encourage broadcasters to consider innovative approaches to sponsoring not only the creation of additional amounts of children’s programming but also the accessibility, availability and technical quality of that programming, the Commission should adopt the

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various proposals. See FNPRM at ¶ 78 (also asking about setting funding levels based on station categories defined by annual revenues, network affiliation or market size). A simple fixed percentage applicable to all TV stations would account for the market size and resources of any sponsoring stations because leading stations in larger markets would generate greater advertising revenues for their “freed up” time and would accordingly be contributing a greater amount to local noncommercial station(s). See PTV Comments at 5-6.

<sup>8</sup> Section 103(b)(2) of the Children’s Television Act of 1990 (Act), 47 U.S.C. § 303b(b)(2).

<sup>9</sup> PTV Comments at 1-2.

<sup>10</sup> See FNPRM at ¶ 77 (tentatively concluding to limit sponsorship framework to noncommercial stations).

proposals of the public TV commenters and also consider permitting special sponsorship efforts on both commercial and noncommercial TV stations. A more flexible sponsorship framework is needed to meet the challenges of providing quality content that will engage children in today's rapidly changing video marketplace with its vast array of competing platforms and programming options.

Respectfully submitted,

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BROADCASTERS**  
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A handwritten signature in dark ink, appearing to read "Rick Kaplan", with a long horizontal flourish extending to the right.

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Rick Kaplan  
Jerianne Timmerman

October 15, 2019