also make some specific suggestions that address the Commission's practical concerns.

The NPRM properly acknowledges that ensuring that applicants serve the special needs and interests of the community remains the "touchstone" of FCC regulation. Id. ¶ 16. In light of the bedrock duty of licensees to provide programming addressing community needs and interests, it would be irrational for the Commission to preclude the possibility of considering programming in selecting licensees.

Comparative credit for proposed programming is typically sought where an applicant plans to serve an unmet need by providing programming in a language other than English. See, e.g., Religious Broadcasting Network, 3 FCC Rcd 4085, 4102-03 (Rev. Bd. 1988) (one applicant proposed Chinese language programming in community with 5% Asian population; another proposed programming in Spanish where population 25% Hispanic). We believe that the Commission should continue to allow applicants the opportunity to make such proposals, and if a prima facie showing of need is made, to have the opportunity to obtain comparative credit at the hearing. In addition to foreign-language programming, however, there are several other categories of programming, which if proposed by an applicant, would demonstrate superior devotion to public service.

First, using the same rationale of awarding credit to applicants who pledge to expand the availability of programming to underserved segments of the population, we believe that the

Commission should offer credit to applicants who commit to make significant quantities of their programming accessible to persons with disabilities. For example, television applicants could commit to utilize Descriptive Video, to make programming accessible for persons with impaired vision, or captioning, to make programming accessible to person with impaired hearing.[13] Offering the possibility of obtaining comparative credit would provide an incentive to offer these important services.

Second, the Commission should award comparative credit to an applicant that commits to provide significant educational and informational service to the child audience. Every community has children, and the fact that children are underserved by both television and radio is well known. Because of the smaller size and lesser spending power of the child audience, market forces cannot be relied on to generate adequate levels of educational and information programming for children. Awarding a preference to an applicant proposing substantial service to children would increase service to children and would effectuate Congressional intent in passing the Children's Television Act of 1990.

Third, the Commission should reward applicants proposing a substantial quantity of public affairs programming. An applicant could only receive credit if it pledged to broadcast a specific

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[13] Congress has recognized the importance of reaching underserved segments of the population by requiring all televisions sold in the United States to be equipped with a built in closed captioning decoder. Television Decoder Circuitry Act of 1990, 47 U.S.C. §§ 303(u), 330(b) (West 1991). However, the market place alone may not generate sufficient amounts of captioned programming.

quantity of public affairs programming that was shown to be substantially greater than that broadcast by other stations serving the community. By allowing the applicants to choose whether to make this commitment in the first instance, to determine how much time to commit and to decide the content of the public affairs programming,the Commission avoids making any a priori judgment about program content.[14]

These three proposals address the Commission's concern over the "probative value of 'paper proposals.'" NPRM, ¶ 17. Applicants requesting comparative preference on the basis of programming would have to demonstrate in their subsequent renewal application that they met their commitments. Because the commitments are quantifiable and objective, any attempt to mislead the Commission would likely be found out. Applicants would have a strong incentive to live up to their commitments since those failing to do so would face the possibility of a petition to deny renewal.[15]

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[14] This proposal is not inconsistent with the concerns expressed in Deregulation of Radio, 84 FCC 2d 968, 982-83 ¶ 34. See NPRM ¶ 17. In that proceeding, the Commission was concerned that its guidelines specified "precise quantities of programming that should be presented by all stations regardless of local needs and conditions." 84 FCC 2d at 983. By contrast, in the comparative licensing proceeding, the Commission would not specify any specific quantity. Rather, an applicant could choose to make a commitment to a specific quantity or not, and if it so chose, the quantity would be left to the applicant's discretion.

[15] We recognize that the Commission previously eliminated the "promise vs. performance" criterion for license renewal. Deregulation of Radio, 84 FCC 2d. 968. Our proposal reimposes that criterion only where applicants voluntarily make a specific public interest program commitment. This proposal is analogous to the voluntary service continuity preference.

Respectfully submitted

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