

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

COMMENTS

Maranatha Broadcasting Company, Inc. (“MBC”) respectfully submits its comments in response to the Notice of Proposed Rulemaking (“NPRM”) adopted by the Federal Communications Commission (the “Commission”) in the above-referenced proceeding.¹

I. INTRODUCTION AND SUMMARY

MBC is the licensee of two television stations in the Philadelphia designated market area (“DMA”), WFMZ-TV and WDPN-TV. As set forth in more detail below, for stations like WFMZ-TV and WDPN-TV that are not affiliated with major television networks, the rigid application of the Commission’s rules for children’s television programming can be burdensome. In particular, requiring three hours of educational and informational programming directed for every program stream that a station broadcasts imposes a significant burden, with minimal additional benefits, in today’s competitive television marketplace. These obligations can restrain the programming creativity of the station owner, and the station’s ability to provide other programming that serves the public interest. MBC applauds the Commission’s proposal to provide flexibility to broadcasters in meeting their children’s television obligations. As provided below, the Commission should take a number of steps to benefit children and broadcasters alike.

¹ *Children’s Television Programming Rules; Modernization of Media Regulation Initiative*, Notice of Proposed Rulemaking, MB Docket Nos. 18-202, 17-105, FCC 18-93 (rel. July 13, 2018) (“NPRM”).

II. THE COMMISSION'S PROGRAMMING REQUIREMENTS DO NOT MAKE SENSE IN THE CURRENT MARKETPLACE

WFMZ-TV, since the incentive auction, shares a broadcast channel with three other stations.² WFMZ-TV has carved out a niche in the market being the primary source of news and information focused on the northern suburbs of the Philadelphia DMA, providing 93 half hours of local news programming each week. As part of its dedication to informational programming, WFMZ-TV provides a second programming stream, The AccuWeather Channel, which provides round the clock up to the minute weather updates with its local meteorologist. Under the Commission's current rules, however, the second channel mandates an additional three hours of children's programming.³ Prior to the incentive auction, WFMZ-TV could air such programming on another of its subchannels. But when WFMZ-TV started sharing channels, those other subchannels moved to its sister station, WDPN-TV, as WFMZ-TV had significantly less bandwidth. Despite these changes, the requirement that WFMZ-TV's AccuWeather Channel, also air three hours of children's educational programming remained. Rather than disrupting the news-intensive programming on the main WFMZ-TV channel, or inserting children's programming onto The AccuWeather Channel, where it clearly makes no sense, MBC considered seeking approval to meet its children's programming obligations for the WFMZ-TV AccuWeather Channel on a subchannel on its sister station. But, when Commission staff could offer no assurances that this alternative would be approved, MBC was forced to degrade its two channels on the shared spectrum to add a third channel in order for WFMZ-TV to rebroadcast another of its subchannels on which the children's programming could be run.

² Federal Communications Commission, Modification of a Licensed Facility for DTV Application, Licensing and Management System (last visited Sept. 24, 2018).

³ See 47 CFR § 73.671.

From the above experience, it is clear that the rigidity of the Commission's three hour programming requirement makes no sense in today's competitive and dynamic video marketplace. In the past, where there were only a few television stations in any market, and each channel had only one programming stream, it may have made sense to require that each station have children's educational and informational programming. In that bygone era, stations would be sources of general programming targeting broad demographics in each market. Today, however, television stations operate in a different world where programming is distributed in many different ways. The explosion of different sources of educational programming for children truly draws the question of whether decades old rules continue to make sense in today's marketplace.

While the primary programming streams of major network affiliates may still program to a broad audience, the proliferation of outlets for television programming requires other stations and program streams to be targeted to much more specialized audiences. The increase in the number of programming streams in any market subject to the three hour rule for children's educational programming has dramatically increased since these rules were first adopted. This has occurred with the increase in the number of independent television stations (particularly in major markets) and the increase in program streams made possible through digital multicasting. It is likely that the number of program streams will increase even more with the multiplexing and geo-targeting opportunities to be presented by ATSC 3.0. With the significant increase of programming streams, one could convincingly argue the lack of need for three hours of educational children's programming on each stream. And, with more and more specialized channels like The AccuWeather Channel, offered by NBC (or soap opera channels, channels devoted to old movies, nostalgia television, all news channels, or even static billboard channels

with music), children are less and less likely to be in the audience of those stations watching the educational programming that these channels are required to broadcast.

MBC applauds the Commission for questioning whether its current three hours per subchannel requirement continues to make sense. Children's educational programming, like any other programming on a broadcast station, needs to attract an audience to be able to pay for itself – and the larger the audience, the more likely that the quality of such programming will increase. In today's marketplace, it has proven impossible for MBC to sell a single advertiser commercial time in any of its children's programming. This is because advertisers know intuitively coupled with a lack of ratings in these shows, that MBC's extensive news, weather and syndicated programming serves an adult audience. WFMZ-TV is not the place parents or children turn to for children's programming. Furthermore requiring three hours of educational programming on each subchannel only results in a more fragmented audience, which decreases the quality of programming for those targeted audiences.

Moreover, aggregating the required children's programming on fewer stations is more likely to increase children's exposure to educational and informational programming. As stated above, children are less likely to be watching a channel showing 24/7 weather, nostalgia or other niche programming. Instead, they are far more likely to be watching a channel where there is a substantial amount of children's programming. The Commission should allow all stations to meet their children's obligations by arranging for that programming to be aired on any station in the same market as the broadcaster.⁴ If the Commission's and Congress's goal is to reach the most children with quality educational and informational programming, it makes sense to consolidate such programming in fewer, more easily locatable places.

⁴ In MBC's case, this would have resolved the issue with WFMZ-TV, as it could have run its required programming on its sister station in the market.

Further, by adopting what would be similar to an “incubator” for children’s programming, one station should get credit for assisting another station to air additional children’s educational programming. This may well give independent stations an incentive to specialize in children’s programming both to attract an audience and to increase revenue by having other stations subsidize their children’s programming. It will also benefit children by giving them a more defined location at which to find this programming and will increase the opportunity for that programming to thrive in a multichannel world.

Children’s programming also need not be required on the main station’s channel. What were once subchannels, following the incentive auction, may well become main channels as stations have transitioned to channel-sharing arrangements. This transition, coupled with the likely introduction of ATSC 3.0 in the near term, make subchannels much more accessible and more widely available to television viewers. In a world where electronic programming guides and app-based program finders help viewers locate programming not only on television, but also on multichannel providers and streaming services, there is no reason to believe that children will only be able to find children’s programming if it is on a station’s main channel.

The current rules do not permit stations to meet their children’s television obligations on other subchannels unless those subchannels have substantially equivalent cable carriage.⁵ This rule is outdated and should be eliminated. The size of the cable carriage audience is irrelevant in assessing the goal of children’s television programming on over-the-air stations. As the Commission correctly recognized in the NPRM, there is a wealth of programming sources for children on cable television and through other means including video on demand, internet sites,

⁵ 47 CFR § 73.671(e)(2)(ii) (stating broadcasters “may air all of their additional core programming, apart from the 3 hours of core programming that must be aired on the main program stream, on one free video channel ... as long as the stream on which the core programming is aired has comparable MVPD carriage as the stream whose programming generates the core programming”).

and over-the-top video providers.⁶ Thus, equivalence of cable carriage is irrelevant, as cable households are already well served with children’s programming. A station’s flexibility and creativity to serve children better, should not be hindered or dictated by an MVPD’s refusal to carry the station’s specialized channel. It is the over-the-air viewers, who are growing in number, who have no other options for viewing children’s programming, who will significantly benefit from these proposed changes.

III. CONCLUSION

MBC applauds the Commission for moving to relax its current requirements for educational and informational programming for children. The current rules place a significant burden on stations without providing any additional benefits to children. In many ways, stations are currently airing programming for the sake of meeting regulatory obligations – not to reach a real, economically sustainable audience. By relaxing its rules in the ways described above, the Commission will be meeting the needs of stations and children in a way that is more tailored to the modern era. The Commission should expeditiously move forward in a way that recognizes the marketplace realities while promoting programming that truly meets the needs of children.

Respectfully submitted,

Maranatha Broadcasting Company, Inc.

By: _____/s/
Barry Fisher

Its President

Dated: September 24, 2018

⁶ NPRM ¶ 42 (describing the “abundance of children’s programming available today from various sources, including PBS, cable networks, over-the-top video providers, Internet sites, and video on demand”).