

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

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

To: The Commission

**COMMENTS OF CADILLAC TELECASTING COMPANY**

The Cadillac Telecasting Company (“Cadillac”)<sup>1</sup>, by its attorneys, hereby submits these Comments in response to Federal Communications Commission’s (“FCC” or “Commission”) Notice of Proposed Rulemaking (“NPRM”) in the above-captioned proceedings.<sup>2</sup> The Children’s Television Act of 1990 (“CTA”) requires the FCC to “prescribe standards applicable to commercial television broadcast licensees with respect to the time devoted to commercial matter in conjunction with children’s television programming.”<sup>3</sup> The CTA also establishes the criteria by which the Commission must “review any application for renewal” by taking into account whether the licensee in question has complied with the current rules currently in place and “served the educational and informational needs

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<sup>1</sup> Cadillac Telecasting Co. is a locally-owned and operated full-power television station licensed to the Traverse City-Cadillac MI market, the 118<sup>th</sup> Nielsen DMA. Cadillac serves the market with full-power WFQX-TV and extends its programming eighty miles north to less populated northern regions of Michigan with its digital satellite, WFUP-TV Vanderbilt, MI.

<sup>2</sup> *In the Matters of Children’s Television Programming Rules, Modernization of Media Regulation Initiative*, Notice of Proposed Rulemaking, MB Docket Nos. 17-105, 18-202, FCC 18-93 (rel. July 13, 2018) (“NPRM”).

<sup>3</sup> 47 U.S.C. § 303a.

of children through the licensee's overall programming.”<sup>4</sup> Cadillac fully supports the intent of the CTA, and what that law requires in order for broadcasters to serve the public interest, convenience and necessity. However, as explained in greater detail below, the Commission has the authority to change the rules currently in place to meet those public interest requirements, and do so without restricting educational or instructional over-the-air programming beneficial to children and teenagers.

Cadillac agrees with the Commission's general determination that there has developed “dramatic changes in the way television viewers, including younger viewers, consume video programming” and that because of those changes, “the time is ripe to modernize the children's programming rules.”<sup>5</sup> Furthermore, Cadillac enthusiastically supports various tentative conclusions and proposed regulations contained in the NPRM that it believes would reduce administrative burdens and outdated policies while not actually reducing the total amount of education and informational programming for children defined as “Core Programming” in the Commission's rules.<sup>6</sup> Specifically, Cadillac believes that: (1) the Children's Television Programming Report should be filed on an annual and not on a quarterly basis; (2) the Children's Television Programming Report should be streamlined to allow licensees to certify that they will air the required Core Programming rather than include detailed information; (3) a licensee must be allowed to broadcast any or all of the required Core Programming for that license on a multicast stream (when available) without necessitating that the Core Programming be broadcast on the main program stream; and (4) the definition of “Core Programming” itself needs to be broadened to include programming that is (a) appropriate for all ages and is of civic importance, (b) of a duration

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<sup>4</sup> 47 U.S.C. § 303b.

<sup>5</sup> NPRM at ¶ 1.

<sup>6</sup> 47 CFR § 73.671(c).

that is shorter than 30 minutes in length, (c) broadcast before or after the current 7:00am to 10:00pm window, and (d) not “regularly scheduled” as it is currently defined.

**I. THE CHILDREN’S TELEVISION PROGRAMMING REPORT SHOULD ONLY BE FILED ON AN ANNUAL BASIS.**

The Commission’s current rules stipulate that the Children’s Television Programming Report (FCC Form 398) must be filed on a quarterly basis.<sup>7</sup> The reporting requirement itself is fair means of demonstrating licensee compliance, but the fact that it must be done on a quarterly basis is (for a variety of reasons) an undue burden, especially on smaller stations with limited staff resources. As the Commission itself notes, quarterly filing does not “serve[] any useful purpose today.”<sup>8</sup> But what it does do is force Cadillac’s scarce human resources to carefully document programming details and submit them every few months (often with little appreciable variation in station programming quarter-to-quarter). The Commission asks whether a switch from a quarterly filing to an annual filing would result in any loss of accountability or transparency. The simple answer is no, and for one very important reason: if viewers identify any station that is *not meeting* its Section 73.671 requirement over a period of many weeks or months, they have the ability to not just contact the station directly, they can file a complaint directly with the Commission. Broadcasters seeking license renewals have a vested interest not to alienate their viewers. Failing to broadcast over-the-air the requisite number of educational or instructional programming hours catering to children and teenagers will alienate viewers and is counter-productive. The actual filing of FCC Form 398 is just a mere formality. Finally, while the Commission proposes that annual report be due within ten days after the conclusion of the previous calendar year, Cadillac believes that filing those reports within 30 days is a better option, in large part

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<sup>7</sup> 47 CFR § 73.3526(e)(11)(iii).

<sup>8</sup> NPRM at ¶ 30.

because the first few days of the following calendar year will include at least one weekend, a Federal Holiday (New Year's Day), and possibly a second weekend. These "days off" will likely result in the absence of key station staff members, and in turn, the Commission could be inundated with numerous late filings or waiver requests.

## **II. THE CHILDREN'S TELEVISION PROGRAMMING REPORT SHOULD BE STREAMLINED TO ALLOW FOR LICENSEE CERTIFICATION.**

The current Children's Television Programming Report requires that a licensee answer 17 highly detailed questions, some of which (*e.g.*, Questions 4-6) must be duplicated for each "Core Program" broadcast by a licensee. The amount of time Cadillac employees spend compiling the report, especially the program-by-program lists, does nothing to either add value to the actual children's programming, or, add to the total amount of children's programming broadcast by Cadillac. A better alternative is to require licensees to use FCC Form 398 as a means to certify that the station has met the various requirements contained in 47 CFR § 73.671. Just as with the earlier recommendation that reports be filed annually instead of quarterly, the recommended move to a certification filing (in lieu of a fully detailed report) will not change the actual programming broadcast by Cadillac. Nor will it encourage a reduction in children's programming. If Cadillac or any other broadcaster fails to adhere to the Commission's very specific requirements, viewers in the community will be the first to notice this failure and they have the ability throughout the year to contact both the station directly or file a complaint with the Commission. Any parent who wishes to know exactly what Cadillac is broadcasting at any given time can easily search any number of publicly-available, free web-sites such as *TV Guide*.<sup>9</sup>

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<sup>9</sup> See [www.tvguide.com/listings/](http://www.tvguide.com/listings/). Information is also available via *TVGuide*'s mobile app available on Android or Apple iOS.

**III. THE COMMISSION MUST MODIFY ITS RULES TO GIVE A LICENSEE THE ABILITY TO MEET ITS CHILDREN'S CORE PROGRAMMING REQUIREMENTS ON EITHER ITS MAIN PROGRAM STREAM OR ANY OF ITS MULTICAST STREAMS.**

Today, a licensee is able to broadcast more than one “stream” using its 6 megahertz channel. Prior to the television industry’s mass conversion to a digital television (DTV) standard, the country’s broadcasters were limited to maintaining only one stream of content daily (*i.e.*, a maximum of 24 hours of daily programming per license). Digital multicasting over-the-air now increases the amount of daily programming to 48, 72 or even 96 hours of daily programming content. This technological evolution now allows for a broadcaster such as Cadillac to easily deliver children’s programming on one or more of its multicast streams in lieu of its main programming feed - - while still adhering to its obligations under the CTA. Therefore, Cadillac concurs with the Commission’s determination in the NPRM that Section 336 of the CTA does not require an increase in Core Programming on multicast stations, and furthermore, that the existing Core Programming requirements can be delivered on any one or more of a licensee’s multicast streams.

If a licensee broadcasts a main program stream and any additional multicast streams, that licensee should only be required to support the required Core Programming content for a single stream – and the actual Educational and Informational content should be allowed to be broadcast on any of the multicast streams. There are many reasons why this policy makes sense today and into the future. It is well-established that American consumers with access to MVPD services (e.g. satellite or cable) or on-demand streaming media services (e.g., Amazon Prime, Hulu, Roku, etc.) can view a nearly unlimited amount of “children’s programming” at any time. However, even for those Americans who cannot afford or for some reason cannot access MVPD, fixed broadband, or wireless/mobile broadband services and who rely exclusively on over-the-air television, digital multicasting has significantly

increased the number of “channels” a television receiver can pick up. Importantly, a licensee’s digital multicasting sub-channels are immediately adjacent to a licensee’s main programming channel when a viewer is “scrolling” through the listing of available channels. Also of significance is the fact that the quality of signal of a sub-channel is not any different than the quality of signal of the main channel feed. DTV technology works such that if a broadcaster has 1 main channel and 3 sub-channels, an over-the-air view is either receiving four streams or zero streams - - it is an all-or-nothing proposition. Therefore, there is very little difference in whether a licensee broadcasts Core Programming on main stream or a sub-channel. Finally, the prices of consumer over-the-air Digital Video Recorders (DVRs) -- which can be used to time-shift when children view Core Programming - - are well under \$100 per unit. Allowing licensees to broadcast Core Programming on a digital multicast sub-channel gives both the licensee and the viewer increased flexibility while not reducing the amount of Core Programming broadcast in a given day, week, month or year.

#### **IV. THE COMMISSION MUST EXPAND ITS DEFINITION OF “CORE PROGRAMMING” TO ACCOMMODATE CHANGES IN CHILDREN’S VIEWING HABITS, AND WHAT IT MEANS TO BE “EDUCATIONAL AND INFORMATIONAL”.**

Section 73.671(c) of the Commission’s rules has several requirements regarding television programming for children 16 years of age or younger. Programming “designed to serve the educational and informational needs of children” is defined as “Core Programming”, and for something to qualify as Core Programming it must satisfy certain criteria.<sup>10</sup> Cadillac believes that

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<sup>10</sup> 47 CFR § 73.671(c). Core Programming must: (1) serve the educational and informational needs of children ages 16 and under as a significant purpose; (2) air between the hours of 7:00 am and 10:00 pm; (3) be a regularly scheduled weekly program; (4) be at least 30 minutes in length; (5) be identified as specifically designed to educate and inform children by the display on the television screen throughout the program of the symbol E/I; and (6) have the educational and informational objective and the target child audience specified in writing in the licensee’s Children’s Television Programming Report. Additionally, instructions for listing the program as educational/informational, including an indication of the age group for which the program is intended, are provided by the licensee to publishers of program guides.

Section 73.671(c) of the Commission's rules must be modernized to account for how children view educational and informational programming in today's multi-medium digital environment and even more importantly, what qualifies as "Core Programming."

**A. The Commission Should Adopt NAB's Proposal to Expand the Window of Core Programming Broadcasts by at least Two Hours**

The National Association of Broadcasters has proposed that the FCC's permitted window for when licensees can broadcast Core Programming be expanded so that it runs from 6:00 am until 11:00 pm.<sup>11</sup> Cadillac agrees with this proposal. There is no standardized start time in television markets for when schools districts begin the school day, whether for elementary, middle, or high schools. This means that individual families may start their days prior to 6:00 am or end their days after 10:00 pm. In the summer, when school is typically not in session, students have even less restrictions on when they view television. By permitting licensees to broadcast Core Programming before 7:00 am and after 10:00 pm, even if by just one hour, the Commission can provide greater flexibility to families without subscription-based or on-demand content access. As was mentioned earlier, by combining extended over-the-air Core Programming Hours with inexpensive household DVRs, families with young children can both extend their "appointment viewing" and their "time-shifting viewing."

**B. The Commission Should Eliminate the Requirement that Individual Core Programs Last A Minimum of 30 Minutes.**

The Commission's children's programming rule requiring that any educational and/or informational program last no less than 30 minutes is an outdated concept in 2018 and in the future. In decades past, short-duration educational programs such as "Schoolhouse Rocks" were critically-acclaimed, but few and far between. Today, similar original programming can be found all over the Internet, as evidenced

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<sup>11</sup> *In the Matter of Modernization of Media Regulation Initiative*, Comments of the National Association of Broadcasters, MB Docket No. 17-105 (filed July 5, 2017) at p. 31.

by special YouTube channels.<sup>12</sup> Smartphones, animation software, and free and/or open source video-editing technology have made it incredibly easy for just about anyone to create short-duration educational/instructional programming. These advancements, in turn, make it easier for television broadcasters to buy the rights to broadcast an even wider variety of original programming. However, not all content that could qualify as Core Programming meets the 30 minute minimum requirement. So long as the content is properly identified in program guides (whether on-line or over-the-air), the Commission should permit licensees to count short-duration programming on a minute-for-minute basis. This one change could add hours of additional Core Programming to a licensee's annual line-up and it would be well-received by consumers, especially those who might not have MVPD, on-demand, or pay-TV options inside their homes.

**C. The Commission Should Eliminate its Requirement that Qualifying Core Programming be “Regularly Scheduled.”**

For several generations, television programming was very predictable when it came to the days and times when specific shows were broadcast over-the-air. This type of appointment viewing was crucial for all parties involved - - whether broadcasters, viewers or especially advertisers. This is no longer the case. Americans now live in an era where multi-episode video programs “drop” on Amazon Prime and Netflix throughout the calendar year and appointment viewing is no longer necessary. Broadcasters need to be just-as-nimble as pay-TV providers when it comes to offering quality children's programming, and one way of doing this is to eliminate the requirement that educational and informational programming be “regularly schedule weekly programming.” Once again, so long as free program guides and station websites remain are updated on a timely basis with the latest broadcast schedules, there is no practical need to identify a program as “regularly scheduled” or non-regularly-

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<sup>12</sup> See <https://www.fatherly.com/play/best-youtube-channels-for-kids/> or <https://homeschoolhideout.com/educational-youtube-channels/>.



scheduled. Dropping this one requirement will provide Cadillac with the ability to acquire unique, single-event, or non-weekly specials that can count as Core Programming. Finally, most children and parents learn about “new” programming not from program guides or the channel itself, but often via social media and word-of-mouth. Now more than ever, there is no need to retain a legacy “appointment viewing” requirement that Core Programming under Section 73.671(c) be “regularly scheduled.”

**D. The Commission Should Expand the Types of Programs that Qualify as Core Programming So Long as They are of Civic Importance**

In the last few months, Cadillac, like many other television stations, has had the need to interrupt its regularly scheduled slate of programming to accommodate important live streams that are either of political or social importance, but that do not currently qualify as children’s programming. For example, Cadillac had the privilege to broadcast the 2018 World Cup in June and July. Cadillac is also aware of other stations that were faced with the tough choice of preempting regularly scheduled children’s programming in order to broadcast the memorial services for the late Sen. McCain (something which Cadillac believes is of civic importance for children and adults alike). Furthermore, the required preempted children’s programming was re-broadcast at a later date, displacing other regularly scheduled programming, alienating additional viewers. Whether it is sharing in the joys of the world’s most viewed competitive sporting tournament or observing the passing of a modern-day American hero, these types of “one-off” (but not “breaking news”) preemption events should at the very least eliminate the need for broadcasters to push the originally-scheduled programming to a “second home” or second date. Ideally, those events in and of themselves should qualify as educational or informational due to their civic importance, and thus, count towards a licensee’s Core Programming obligation under Section 73.671(c) of the Commission’s rules.

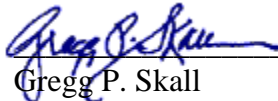
## V. CONCLUSION

Cadillac is but one of the thousands of small, commercial television licensees operating in the United States. It strongly believes in the importance of the CTA and the various rules promulgated underneath that law. Nonetheless, the Commission's current rules regarding children's programming are in dire need of streamlining to account for consumers' growing desire to view video-programming either on-demand or in some other type of time-shifting manner. Cadillac believes that by adopting the proposals discussed above, over-the-air broadcasters can reduce burdensome reporting requirements, grow their viewership, expand their children's programming portfolio, and remain competitive against subscription-based content providers such as Amazon, Hulu and Netflix and MVPDs.

Respectfully submitted,

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