

SUMMARY OF RECENT DEVELOPMENTS

On reconsideration of its new children's television rules, the Commission followed numerous suggestions of INTV in clarifying, modifying, and/or refusing to modify the new rules. In response to INTV's requests or objections, the Commission:

- Postponed the effective date of the new commercial time limitations from October 1, 1991, to January 1, 1992. (See Q&A No. 4.)
- Clarified that stations would not be required to defend their manner of assessing the educational and informational needs of children if their record of programming and nonbroadcast efforts for children shows compliance with the new programming requirements. (See Q&A No. 78.)
- Clarified that stations need not keep program logs to document compliance with the commercial time limitations, but could keep tapes, lists of commercial minutes per hour, or other sorts of records showing compliance with the commercial time limitations. (See Q&A Nos. 34, 35, and 36.)
- Clarified that documentation of compliance with the commercial time limits must be placed in stations' public files on a quarterly basis, no later than the 10th day of the month following the end of the quarter. (See Q&A No. 38.)
- Declined to adopt quantitative programming requirements or guidelines. (See Q&A No. 47.)
- Declined to require that stations specify the part (age group) of the child audience to which particular programs were directed. (See Q&A No. 68.)
- Clarified that during paid spots which present only educational or informational material, the standard corporate logo of the sponsor may appear as video during the audio sponsorship identification announcement without transforming the spot into commercial matter. (See Q&A No. 27.)
- Clarified that use of a prize furnished to the station, in the absence of other consideration, will not be considered commercial matter if the prize is identified only via its use or a mere mention of the prize. (See Q&A No. 31.)
- Declined again to institute a system of random compliance audits, but did indicate it retained the right to do so. (See Q&A No. 39.)
- Reaffirmed its definition of program length commercial. (See Q&A No. 81.)

The Commission also took other actions modifying or clarifying its original rules. The Commission:

- Clarified that the furnishing of a promotional announcement for a program to a station by the program supplier does not constitute consideration, thereby requiring that the promo, if broadcast, be considered commercial matter. (See Q&A No. 30.)
- Clarified that music videos and home shopping programs will be considered children's programming if they are produced and broadcast for an audience of children 12 years old and under. (See Q&A Nos. 7 and 9.)
- Clarified that the configuration or distribution of commercial matter within an hour of children's programming is not restricted and need not be *pro rated* over programs falling within the same clock hour. (See Q&A No. 15.)
- Modified the commercial time limitations to apply to short-segment programming (five minutes or longer) rather than just programming of 30 minutes or greater duration. (See Q&A No. 17.)
- Clarified that commercial overages caused by last-minute emergency scheduling changes will be considered *de minimis* violations. (See Q&A No. 41.)
- Clarified that home shopping stations were subject to the commercial time limitations and children's programming requirements. (See Q&A No. 9.)
- Clarified that although short-segment programming could contribute to fulfillment of a licensee's obligation to broadcast programming responsive to the educational and informational needs of children, all stations were required to broadcast some "standard-length" programming responsive to such needs. (See Q&A No. 49.)
- Modified its requirement for separation between a program and a commercial related to the program. The 60-second required separation was replaced with a requirement that unrelated program material appear between a commercial and any related children's program. (See Q&A No. 83.)
- Clarified that licensees would be called upon to defend their record of children's programming only in response to nonfrivolous allegations of noncompliance or if the reasonableness or good faith of a licensee's determinations were otherwise called into question. (See Q&A No. 77.)
- Applied the programming requirements, but not the related record-keeping, reporting, and filing requirements to noncommercial television stations. (See Q&A No. 1.)
- Clarified that programming information submitted with renewal applications could be in a different format from that maintained in the station's public file to document compliance with the programming requirements. (See Q&A No. 75.)

APPLICATION AND EFFECTIVE DATES

1. **Question:** To whom do the new rules apply?

Answer: The new rules apply to licensees of *commercial* broadcast television stations. Only the programming requirements apply to noncommercial broadcast television stations. Noncommercial stations are not subject to the commercial time limits or to any record-keeping, reporting, or filing requirements. (*Report and Order*, 6 FCC Rcd 2111 (1991), ¶¶2,14,30, *reconsideration granted in part, Memorandum Opinion and Order*, MM Docket Nos. 90-570 and 83-670, FCC 91-248 (released August 26, 1991), ¶45 [Hereinafter citations to the *Report and Order* are indicated by paragraph number alone; citations to the *Memorandum Opinion and Order*, are indicated by paragraph number preceded by the letter "R".])

2. **Question:** Are cable television systems subject to the new rules?

Answer: Yes. Cable television systems must comply with the commercial time limitations. However, cable television systems are not subject to the rules requiring the broadcast of programming responsive to the educational and informational needs of children. (¶¶2,10,11)

3. **Question:** When do the new programming rules become effective?

Answer: The new programming rules become effective on October 1, 1991. Therefore, as of October 1, 1991, stations must begin to provide programming to serve the educational and informational needs of children. (¶48)

4. **Question:** When do the new commercial time limitations become effective?

Answer: The Commission has postponed the effective date of the commercial time limitations until January 1, 1992. The delayed effective date applies to commercial time in all children's programming, barter or cash, syndicated, network, or local. Previously, the Commission had granted INTV's request to postpone the effective date of the commercial time limitations until January 1, 1992, for barter programming only. On further reconsideration, the Commission decided to extend the effective date until January 1, 1992, for all children's programming in order to avoid any competitive imbalance between stations. INTV had also supported that action. (*Order*, FCC 91-292, released September 20, 1991.)

5. Question: When will the Commission begin reviewing television station renewal applications to determine if stations have complied with the programming obligations in the new rules?

Answer: Renewal applications filed by stations the licenses of which expire on June 1, 1992, will be the first renewal applications reviewed by the Commission. Those applications must be filed on or before February 1, 1992. (¶49)

6. Question: Will the Commission review the station's record of children's programming broadcast prior to October 1, 1991?

Answer: No. The Commission will review licensee programming broadcast on or after October 1, 1991. (¶49)

COMMERCIAL TIME LIMITATIONS "CHILDREN'S PROGRAMMING" SUBJECT TO THE RULES

7. Question: What programming is considered children's programming subject to the new commercial time limitations?

Answer: Children's programming subject to the commercial time limitations is defined as "programming originally produced and broadcast for an audience of children 12 years old and under." *The key to the definition is the audience to which the program is targeted. For example, even music videos or home shopping segments, if produced and broadcast for children 12 and under will qualify as children's programming.* (N.B. This differs from the definition of children's programming which stations may list as responsive to the educational and informational needs of children. See Q&A No. 30) (¶3) (R¶¶12, 17)

8. Question: If a program originally was produced for general audiences, but is viewed significantly by children, is that program considered a children's program subject to the commercial time limitations?

Answer: No. The child composition of the audience has nothing to do with whether a program is considered a children's program subject to the commercial time limitations. The focus of the definition is the intent of the program producer. Only programming originally produced and broadcast for the child audience is considered children's program subject to the commercial time limitations. Therefore, general audience programming viewed by a large children's audience would not be subject to the commercial time limitations. (¶3)

9. Question: If a station with an all-advertising (e.g., home shopping) format broadcasts commercials for toys or other children's products in programming directed to adult viewer/purchasers, is that programming subject to the commercial time limitations?

Answer: No. The Commission has stated explicitly that commercials for children's products directed to adult viewers will not be considered as broadcast during programs originally produced and broadcast for an audience of children 12 and under. The Commission has emphasized, however, that the commercial time limitations do apply to home shopping stations and that whether advertising for children's products constitutes children's programming subject to the new commercial limits depends on whether the programming is directed primarily to children. (¶3, n.17; R¶16, 17, n.49)

AMOUNT AND COMPUTATION OF COMMERCIAL TIME

10. Question: How much commercial time can a station broadcast during children's programming?

Answer: Stations may broadcast no more than 12 minutes per clock hour of commercial time during weekday children's programming and no more than 10.5 minutes of commercial time per clock hour during weekend children's programming. (§73.660; ¶9)

11. Question: Are commercials in station breaks adjacent to children's programming included in determining the amount of commercial time in a children's program?

Answer: Yes. The commercial time limitation encompasses commercial time in breaks before and after a children's program, as well as commercial matter within the program. (¶9)

12. Question: How is commercial time computed?

Answer: Commercial time is computed on a clock-hour basis. Programs are considered to begin on the hour or half-hour. Thus, for example, a station schedules a children's program block to begin at 4:00:00 p.m. and continue until 5:30 p.m. The children's programming is considered to begin at 4:00:00 and end at 5:30:00. During the hour between 4:00:00 and 5:00:00, the station may

13. Question: In the above 90-minute block of children's programs, may the station broadcast 13 minutes of commercial matter between 4:00:00 and 5:00:00 and five minutes of commercial matter between 5:00:00 and 5:30:00, for a total of 18 minutes over one-and-a-half hours (i.e., an average of 12 minutes per hour)?

Answer: No. The Commission has declined to permit stations to "average" commercial time over children's television blocks or dayparts (e.g., permitting a station to broadcast 14 minutes in the first hour and 10 minutes in the second hour -- averaging 12 minutes per hour -- of a two hour children's programming block on a weekday afternoon.) (¶39, n.123)

14. Question: Again, in the above example, the station broadcasts a general audience talk-show between 3:00 and 4:00 p.m. In the station break immediately preceding the 4:00 o'clock children's program, the station broadcasts two 30-second commercials for a toy company promoting their new line of toys. Are these commercials counted in the children's program which begins at 4:00 for purposes of the commercial time limit in children's programming?

Answer: No. Commercials adjacent to, but outside a clock hour of children's programming, are not counted as falling within the following hour of children's programming. The Commission has stated that it "will begin counting commercials associated with a particular hour of children's programming at the start of the hour and finish counting at the end of the hour." (R¶14)

15. Question: During a clock hour, a station broadcasts two 30-minute children's programs. In the first 30-minutes of the hour, the station broadcasts seven minutes of commercial matter. During the second 30 minutes of the hour, it broadcasts only five minutes of commercial matter. Has the station complied with the new commercial time limitation of 12 minutes per hour?

Answer: Yes. The Commission has stated that no restrictions are imposed on how commercial matter is distributed or configured within an hour of children's programming, provided the total amount of commercial matter in the hour remains within the applicable 12 or 10.5 minute limit.

16. Question: If a station broadcasts a 30-minute children's program and a 30-minute general audience program in a clock hour, how much commercial time may be broadcast in the 30 minutes in and adjacent to the children's program?

Answer: According to the Commission, if only a single half-hour children's program appears in a full clock hour, the commercial time limits are to be pro rated. Thus, a station could broadcast 6 minutes of commercial matter in and adjacent to a children's program during the week and 5 minutes and 15 seconds of commercial time on weekends. (¶9, n.33)

17. Question: A station broadcasts a 10-minute children's program in a block of general audience programming during the week. How much commercial matter may be included in the 10-minute children's program?

Answer: Two minutes. The commercial limits are to be applied on a pro rata basis to programming of less than one hour, but of five minutes or more. (N.B. The Commission determined on reconsideration to impose commercial time limits on short-segment children's programming, as well as programming of the typical duration of 30 minutes or more.) Table I, below, illustrates application of the commercial limits on a pro rata basis. (R914, n.40)

Table I

<i>Program Length</i>	<i>Weekday Limit</i>	<i>Weekend Limit</i>
<i>Five minutes</i>	<i>One minute</i>	<i>53 seconds</i>
<i>10 minutes</i>	<i>Two minutes</i>	<i>One minute, 45 seconds</i>

4:04:15 Commercial
 4:04:45 Station ID/promo
 4:05:00 Children's program begins
 4:33:59 Children's program ends
 4:34:00 Commercial
 4:34:30 Commercial
 4:35:00 General audience program begins

In this example, one minute of commercial time in the breaks is allocated to the children's program -- the 30-second spot in the last 45 seconds (half of 90) of the preceding break plus the 30-second spot in the first 30 seconds (half of 60) of the break following the show. (¶9, n.35)

DEFINITION OF COMMERCIAL MATTER

20. Question: What is considered commercial matter for purposes of the limitation?

Answer: Commercial matter is defined as "air time sold for purposes of selling a product or service." (N.B. This definition is somewhat narrower than the traditional definition which included any material broadcast in return for valuable consideration in that the purpose must be promoting sale of a product or service. Thus, some material which might have been considered commercial matter under the traditional definition of commercial matter would not be considered commercial matter under the above definition. See Q&A Nos. 20 and 21) (¶4)

21. Question: When is air time considered "sold" under the definition of commercial matter?

Answer: Time is considered "sold" under the definition if the advertiser provides valuable consideration either directly or indirectly to the station as an inducement to air the advertiser's material. (¶5)

22. Question: Are "trade-outs" considered valuable consideration?

Answer: Yes. If an advertiser provides goods or services to the station as consideration for broadcast of the advertiser's material, then the time is considered "sold" under the definition of commercial matter. For example, airing commercials for a local automobile dealer in return for free auto rentals would constitute time "sold" for purposes of selling a product or service. (¶5, n.19)

23. Question: A program supplier furnishes the station with a program. in return for two minutes of commercial availabilities during the program.

26. Question: A toy manufacturer buys spots to promote bicycle safety. The toy manufacturer's products are neither mentioned nor advertised in the spots. Are the spots considered commercial time under the rules?

Answer: No. Air time sold for purposes of presenting educational or informational material is not considered commercial time, provided no product mentions or advertising are included in the spot. Again, however, the station still must broadcast a sponsorship identification announcement stating that the announcement is "sponsored by" or "paid for by" the toy manufacturer. The sponsor identification must include no product mention or advertising. Thus, for example, the announcement "sponsored by FunCity Toys and Games" would be suitable. However, the announcement "sponsored by FunCity Toys and Games, maker of the Whizmobile 10-speed racing bike," would be considered advertising and, therefore, commercial matter. (¶7)

27. Question: During the sponsorship identification in the toy manufacturer's spot promoting bicycle safety, the video is the toy manufacturer's corporate logo. Is the toy manufacturer's spot or the sponsor identification portion of the spot considered commercial matter?

Answer: No. At INTV's request, the Commission has clarified that the visual appearance of a sponsor's "standard corporate logo" during the sponsorship identification announcement accompanying a spot presenting only educational or informational material will not convert the spot into commercial matter provided the logo appears only during the verbal (audio) sponsorship identification. Thus, in the above example, the sponsor's logo could appear only during the announcement, "Sponsored by FunCity Toys and Games." The Commission reasoned that use of a logo would clarify the identity of the sponsor without promoting its commercial activities. (R¶9)

28. Question: As part of its advertising package with the sponsor of a children's program, a station agrees to broadcast three promotional announcements for the program each day. The announcements include a reference to a prize furnished by the sponsor to be given away during the program. Are the promotional announcements considered commercial matter?

Answer: Yes. If a station broadcasts promotional announcements for upcoming programs in exchange for consideration from the sponsor, whether separately or as part of a package, the mention of

29. Question: A station broadcasts promotional announcements for

the mention would convert it to commercial matter. Drawing the line can be tricky. In some cases, like this example involving a restaurant, the mention of the identity of the party furnishing the prize is necessary to describe the prize. A meal at McMickey's is different from a meal at McDonalds or at Chez Louie. On the other hand, if the prize is a Schwinn 10-speed racing bike, the identity of the bicycle shop furnishing the bicycle to the station may be considered extraneous and not reasonably necessary to describe the prize fully. Mention of the shop, therefore, might convert the prize promo to commercial matter. Judgments as to what is necessary to describe a prize, consequently, will vary on a promo by promo basis. Another pitfall involves the station's giving 20 of the 50 meal coupons to station staff members. In that case, then the station will have received consideration beyond the actual prize coupons and the meal promotion may be considered commercial matter.

REPORTING AND RECORD KEEPING REQUIREMENTS

32. Question: Are stations required to report to the Commission concerning their adherence to the commercial time limitations?

Answer: Yes. Licensees must certify in their renewal applications that they have complied with the commercial time limits. If the station cannot certify compliance, then it must explain all instances in which the station has exceeded the commercial limits in children's programs. (¶12)

33. Question: Are stations required to maintain any records reflecting commercial time broadcast in children's programming?

Answer: Yes. Stations must maintain records sufficient to verify compliance with the commercial time limits and to permit substantiation of their certification in their renewal applications. (¶13)

34. Question: Must stations compile program logs in order to satisfy the record-keeping requirements?

Answer: No. The Commission does not specifically require stations to maintain program logs to substantiate compliance with the commercial time limitations. (R¶22)

35. Question: May a station maintain videotapes of its children's programs to substantiate compliance with the commercial time limitations?

Answer: Yes. If the tapes are retained and made available for viewing by the public, they will be considered adequate documentation of compliance. (R¶22)

36. Question: What other types of documentation may stations rely on to substantiate compliance with the commercial time limitations?

Answer: The Commission has indicated that the following methods of documenting compliance with the rules are acceptable, provided that the records identify the programs the station considers children's programs subject to the rules and are reviewed on a routine basis by station personnel:

(1) Lists of the number of commercial minutes aired during the station's children's programming. The list must include and identify all children's programming subject to the commercial time limits.

(2) Certified documentation that the station or program syndicator, as standard practice, formats each listed children's program in compliance with the commercial time limits, together with a detailed listing of all commercial time overages ever broadcast during or adjacent to the program. For example, a syndicator or other supplier of a children's program might provide the station with an affidavit confirming that the program is formatted with 24 minutes of program content and four minutes of commercial availabilities. In such a case, if the program were broadcast on weekdays, the station could schedule no more than six minutes of commercial matter during and adjacent to the program. Stations are cautioned that both half-hour programs in a clock hour of children's programs must be documented in order to substantiate compliance during the full hour. The same rule would apply to network-supplied children's programming.

37. Question: Must these records substantiating the licensee's compliance be placed in the public file?

Answer: Yes. The records substantiating the station's ongoing compliance and its certification of compliance with the commercial limits in its renewal application must be placed in the public file. (§73.3526(a)(8)(ii); ¶13)

38. Question: When must records substantiating the licensee's compliance and certification be placed in the public file?

Answer: Records demonstrating the station's ongoing compliance with the commercial time limitations must be placed in the public file no later than the tenth day of the quarter following the quarter in which they aired. (R¶23)

Thus, the annual deadlines for placing documentation of compliance in the public file are as follows:

First Quarter	April 10
Second Quarter	July 10
Third Quarter	October 10
Fourth Quarter	January 10

ENFORCEMENT AND PENALTIES

39. Question: How will the Commission enforce the rules?

Answer: The Commission will review station's license renewal applications and complaints from the public alleging violations of the commercial time limitations. The imposition of forfeitures during the license term has not been ruled out by the Commission. *Although the Commission declined to institute a regular program of random audits, it did state on reconsideration that a limited, supplementary program of random audits might be effective. The Commission retained the right to institute a program of limited audits, but still considered monitoring by the public and the certification process generally adequate to permit enforcement of the rules.* Penalties for violations will be assessed consistent with the Commission's general enforcement procedures and policies. See Q&A's 28 and 64. (¶12)

40. Question: Will a station be penalized if in a few isolated instances it has unintentionally violated the commercial time limitations?

Answer: No. The Commission has stated that it would impose no penalties for so-called *de minimis* violations of the rules. An isolated and inadvertent violation, according to the Commission, would be considered *de minimis*. (¶39)

41. Question: In order to cover a late-breaking news story, a station preempts the second half-hour of a one-hour weekday children's program block. In the first half-hour, the station had broadcast seven minutes of commercial matter. Only five minutes of commercials were scheduled in the second half hour, which was preempted. Consequently, the station technically violated the commercial time limitation because seven minutes of commercial matter appeared in an isolated half-hour weekday segment of children's programming. Will the Commission penalize the station for the violation?

Answer: No. Where a slight overage is caused by a last-minute emergency scheduling change, the Commission will consider the violation *de minimis*, and no penalty will be imposed on the station. On the other hand, if the station knew in advance that a sports broadcast would cause preemption of the last half-hour of children's programming, then the violation would have been foreseeable and would not be considered *de minimis* by the Commission. (R¶15)



47. Question: Do the new rules require that stations broadcast any minimum amount of programming specifically designed to meet the educational and informational needs of children?

Answer: No. The Commission has left the amount of such programming to licensee discretion, noting that such determinations will vary according to such circumstances as the type of programming aired and the station's nonbroadcast efforts to serve the educational and informational needs of children. The Commission also will take into account financial and technical factors, as well as market size in evaluating compliance. (§§24, 29)

48. Question: Do the rules specify any particular format or length for programming specifically designed to meet the educational and informational needs of children?

Answer: No. The Commission has imposed no limitation or requirement on the length or format of programming specifically designed to meet the educational and informational needs of children. The content of the program is the focal point of the definition. Thus, for example, short segment programming like PSA's and 30 or 60-second vignettes can qualify as programming specifically designed to meet the educational and informational needs of children. Similarly, such programming need not be locally-produced, and may be animated, rather than live-action. (§25)

49. Question: May short segment programs alone satisfy the station's obligation to broadcast programming specifically designed to meet the educational and informational needs of children?

Answer: No. All stations are expected to air "standard-length" children's educational and informational programming. Nonetheless, the Commission considers short segment programs "well suited to children's short attention spans," and has stated that it may contribute to filling the children's programming requirement. A licensee, however, still may not rely solely on short-segment programming to fulfill its obligations. (§§8,25; R§16, n.45; R§40)

50. Question: Does programming have to be instructional or non-fiction programming in order to qualify as educational or informational?

Answer: No. Fictional programming can be educational and informational. The Commission has stated that it does "not believe that a child can learn only from non-fiction material." The Commission also determined not to limit educational and informational children's programming to "instructional" programming. (N.B. The Commission's definition of "instructional" programming was confined to classroom instruction and similar learning formats.)

51. Question: What are some examples of children's programs that are educational and informational?

Answer: The Commission has provided some examples of programming that is considered educational and informational. The Commission itself did not select the programs. The following examples were derived from the House and Senate Committee reports accompanying the Act: (1) *Fat Albert and the Cosby Kids* (dealing with issues important to kids, with interruptions by host reinforcing purpose of show); (2) *Winnie the Pooh and Friends* (show based on books designed to encourage reading); (3) *Saved by the Bell* (topical problems and conflicts faced by teens); (4) *Great Intergalactic Scientific Game Show* (basic scientific concepts); (5) *The Smurfs* (prosocial behavior); and (6) *Life Goes On* (problems of a retarded child, emphasizing prosocial behavior). *This is by no means an exclusive list of the programs or types of programs which may be considered responsive to the educational and informational needs of children. They are only illustrative of the programming on the air during consideration of the Act in Congress which the pertinent Congressional committees considered of educational or informational value to children.*

52. Question: Can general audience programming which also serves the educational and informational needs of children contribute to a licensee's efforts to serve the educational and informational needs of children?

Answer: Yes. General audience programming can contribute, as part of a station's overall programming, to serving the educational and informational needs of children. However, a licensee may not rely exclusively on general audience programming in satisfying the programming obligations imposed by the new rules. Each station still must broadcast some programming specifically designed to meet the educational and informational needs of children. (§25)

53. Question: Are stations required to broadcast "regularly scheduled" educational and informational programming for children?

Answer: No. The Commission refused to adopt such a requirement, noting that "Some licensees may, for example, believe that the needs of children in their community may best be met by children's program specials devoted, perhaps, to particular topical issues." (§20, n.81)

ASSESSING CHILDREN'S NEEDS

54. Question: How are licensees to assess the needs of children in their communities?

Answer: The Commission has granted licensee's "reasonable discretion to determine the manner in which they assess the educational and informational needs of children in their

communities, provided they are able to demonstrate the methodology they have used." The Commission has emphasized that it is concerned about the responsiveness of the station to children's needs rather than the "precise methodology" used by the station to assess their needs. Nonetheless, the Commission has encouraged, but not required, use of some permissive assessment guidelines to provide for a more objective evaluation of children's needs and enable stations to justify programming decisions more easily if they are questioned. (§§22,23)

55. Question: What assessment guidelines have been suggested by the Commission?

Answer: In the exercise of their discretion in assessing the educational and informational needs of children, licensees may consider, among other things: (1) the circumstances within the community; (2) other programming on the licensee's station; (3) programming aired on other broadcast stations within the community; and (4) other programs for children available on other media in the station's community of license. According to the Commission, use of these assessment factors will help licensees determine which programs to air to serve the educational and informational needs of children. (§22)

56. Question: Are stations required to monitor other stations' programming in assessing the educational and informational needs of children in their communities of license?

Answer: The Commission has stated that licensees "have no *per se* obligation to monitor other stations or to change their plans based on what another station airs." Nonetheless, the Commission has encouraged use of the assessment factors, which, it states, will "help licensees decide the type of programming to air." Furthermore, in whatever way they seek to determine the needs of children, stations must be able to demonstrate the means by which they have

58. Question: May a station concentrate its efforts to serve the educational and informational needs of children during only several years of its five year license term?

Answer: No. The Commission expects substantial compliance with the programming obligations throughout the license term of every station. However, compliance is not expected and will not be reviewed for periods *prior to* October 1, 1991, when the new rules go into effect. (§14, n.58)

NONBROADCAST ACTIVITIES

59. Question: May stations rely on *nonbroadcast* activities in demonstrating that they have served the educational and informational needs of children?

Answer: Yes, but only to a limited extent. Some specific types of nonbroadcast activities will be considered by the Commission in evaluating a licensee's compliance with its obligation to serve the educational and informational needs of children. Nonbroadcast activities may supplement, but not supplant, a station's programming serving the educational and informational needs of children. Such nonprogramming efforts cannot fulfill entirely a station's obligation to provide some programming specifically designed to meet the educational and informational needs of children. The Commission has stated that "The licensee's obligation to have aired 'specifically designed' educational and informational programming will be satisfied to a degree commensurate with the extent of its nonbroadcast efforts or support for other station's programming. Nonprogramming efforts, however, will not entirely eliminate the obligation to air some 'specifically designed' educational and informational programming." (§28, 29)

60. Question: What types of activities will contribute to satisfying the station's obligations?

Answer: In order to be considered in the Commission's evaluation of a station's record of service to children at renewal, the activity must enhance the educational or informational value to children of television programming broadcast by the licensee or by another television station in the community. (§28)

61. Question: A station conducts a "health fair" at a local junior high school to promote health awareness among pre-teens. The health fair is unrelated to any programming on the station. Can the station claim credit for the fair *vis-a-vis* its obligation to serve the educational and informational needs of children?

Answer: No. Community outreach activities unrelated to television programming will not be considered as enhancing the value of

RECORD-KEEPING AND FILING REQUIREMENTS

66. Question: What records must a station maintain concerning its children's programming and nonbroadcast efforts to serve the educational and informational needs of children?

Answer: The station must prepare a summary of its programming responsive to the educational and informational needs of children, nonbroadcast activities, and support for other station's programming. The summary must reflect the "most significant programming" related to the educational and informational needs of children which the station has broadcast. Stations also should maintain additional information and records to support their summaries, as well as the station's determinations concerning the educational and informational needs of children in their communities of license. (See Q&A No. 63) (¶53)

67. Question: What specific information should the summary include?

Answer: The summary *at a minimum* must indicate the time, date, duration, and a brief description of the program or non-broadcast effort by the licensee. (¶31)

68. Question: Is a station required to specify the age group to which a

71. Question: A station broadcasts a 60-second short-segment on letters of the alphabet for pre-school children during an animated cartoon show each morning. Must the station provide the exact time of broadcast for each broadcast of the segment?

Answer: No. The station need only indicate it was broadcast during another program and provide the time of broadcast of the program. (§32)

72. Question: Must the station's children's programming records be placed in the station's public file?

Answer: Yes. All records which the station must keep to demonstrate its response to the educational and informational needs of children must be placed in the public file. This includes records concerning programming and nonprogramming efforts. The information may be compiled and filed with the station's quarterly issues/programs list or it may be compiled and maintained separately in the station's public file. (§31, n.101)

73. Question: When should the children's programming records be placed in the public file?

Answer: The information must be placed in the file on a quarterly or on an annual basis and must be updated on a quarterly or annual basis. (§31)

74. Question: Will stations be required to certify that they have complied with the obligation to serve the educational and informational needs of children in their renewal applications?

Answer: No. The Commission will require no such certification. Certification alone was considered insufficient to enable the Commission to review compliance with the Act. Furthermore, the requirements are not set measurable standards, like the commercial time limitations, which involve only a certification of fact. (§34,n.108)

75. Question: What information should be provided to the Commission to permit review of a licensee's children's programming record?

Answer: The licensee must submit with the station's renewal application its summary of its programming response and other efforts which it has been required to place in the public file. *The information need not be submitted in the identical format in which it was placed in the public file, but must contain identical factual information and data. Reformatted information submitted in lieu of the original public file compilation also must be placed in the station's public file as part of the station's renewal application. As a practical*

matter, therefore, stations will find it least troublesome to submit copies of the information placed in the public file. No other information need be submitted with the station's renewal application. (¶35; R¶47)

76. Question: May the Commission require submission of additional and/or supporting information and records if questions arise regarding a licensee's compliance with the Act?

Answer: Yes. Licensees should maintain records supporting their children's programming summaries and other decisions regarding children's programming in order to enable them to respond effectively if questions are raised about their compliance with the programming requirements. (¶35)

77. Question: In what circumstances will the Commission require a licensee to defend its record of children's programming?

Answer: The Commission has clarified that it will defer to reasonable licensee judgments concerning children's programming and "would only expect a broadcaster to defend the basis for its programming decisions in the event a nonfrivolous allegation of noncompliance is made or the reasonableness or good faith of the licensee's determination is otherwise called into question." (R¶36)

78. Question: If review of a licensee's children's programming record and any complaint, petition, or objection relative thereto, prompts the Commission to request that a licensee defend its children's programming record, must the station demonstrate that the process used by the station to

station's renewal application and any petitions to deny or informal objections or complaints, the Commission may impose forfeitures, reporting requirements, and/or short-term renewals in cases of willful or repeated violations. Sanctions for programming violations will be considered only at renewal and will not be imposed during the license term. Most significantly, violations of the programming provisions also will be taken into account in reviewing a licensee's overall performance in determining whether license renewal is warranted. In the event of a comparative renewal proceeding, violations of the Act may be taken into account in determining the weight of the incumbent licensee's renewal expectancy. (§39)

80. Question: Will the Commission consider long-term or blanket waivers of the rules in cases of financial hardship or other unique circumstances?

Answer: No. The Commission believes that it lacks authority under the Act to grant such waivers. The Commission did not address its willingness to grant limited waivers (e.g., a brief waiver for a single station).

PROGRAM-LENGTH CHILDREN'S COMMERCIALS

81. Question: What is a "program-length children's commercial?"

Answer: A "Program-length children's commercial" is a program associated with a product, in which commercials for that product are broadcast. For example, the broadcast of commercials for plastic character figures in a program featuring the same characters would be considered a program length commercial. Similarly, if a product or service is advertised in the body of a program and the advertising portion is not separated from the program content in any way (as is required in children's programming), such program would constitute a "Program-length children's commercial." For example, in a program about baseball, particular bats and gloves are promoted. (§44, n.142)

82. Question: Does the above definition encompass an animated cartoon series featuring characters which also are the subjects of plastic figures sold to children, but where no commercials promoting sale of the figures appear in the program?

Answer: No. Unless the plastic figures of the characters were advertised in or adjacent to the program featuring the characters, the program is not a "Program-length children's commercial" under the Commission's definition.

83. Question: How much separation is required between a program and a commercial for a product associated with the program to avoid classification of the program as a program-length children's commercial?

Answer: A program will be considered a program-length children's commercial if a product associated with the program appears in commercial spots not separated from the start or close of the program by intervening and unrelated program material. Thus, for example, a commercial related to a children's program may not be broadcast until after the start of a different, unrelated program. The Commission has stated that the intervening material must be program matter and that intervening commercial matter will not be considered an adequate separation device. (¶45; R¶34, n.88, n.89)

84. Question: The host of the station's Saturday afternoon children's adventure film theatre appears in commercials broadcast during weekday afternoon children's programming. He promotes products unrelated to the programs in which the commercials appear. Does such host-selling violate any Commission rule or policy?

Answer: No. The host-selling and program/commercial separations policies do not prohibit such host involvement in commercials provided the products are not associated with the