

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

RECEIVED
OCT 16 1995
FCC MAIL ROOM

In the matter of

Policies and Rules Concerning
Children's Television Programming

Notice of Proposed Rulemaking

)
)
) MM Docket No. 93-48
)
)

DOCKET FILE COPY ORIGINAL

Comments of

CHILDREN NOW

1212 Broadway, Suite 530
Oakland, CA 94612
(510) 763-2444

September 14, 1995

No. of Copies rec'd
List ABCDE

079

I. INTRODUCTION.

Through our Children and the Media Program, Children Now has devoted significant attention over the past two years to the impact of television on children in our society. We have worked extensively with children, parents, educators, academics, researchers, and members of the television industry. We have concluded that television has an enormous impact on the young people of our country, and in particular that it has significant potential to aid in the education of our children, a potential that is not being met today.

We were especially disturbed to note the results of a recently released survey by the U.S. Department of Education, which found that only one-third of high school seniors in this country are proficient readers, a ten percent reduction from the level two years ago.¹ While we do not believe that this fact is the fault of television, nor the responsibility of television to repair, we do believe that television has the potential to contribute to improving the reading skills of our children. We note that U.S. Secretary of Education Richard W. Riley claimed that the results of the study indicated that students were spending "too much time watching mind-numbing television."² We believe that many of the Commission's proposals, if implemented, could help address this national problem.

We applaud the efforts of the Commission to improve broadcaster compliance with the Children's Television Act of 1990, and believe that these efforts are necessary and vital to meet the needs of America's children and the responsibilities of the broadcast industry. The specific proposals we endorse are indicated below.

II. THE DEFINITION OF PROGRAMMING "SPECIFICALLY DESIGNED" TO MEET CHILDREN'S NEEDS.

Children Now agrees with the Commission's proposal that core "educational or informational" programming should be defined as programming of "substantial" length,

¹ "Tests Show Decline in Reading Proficiency," The New York Times, April 28, 1995.

² Ibid.

because we believe that the most effective way to teach children through the medium of television is through such longer-format programming. Our view is that the core programming should be at least thirty minutes in length. From our review of the studies available, we conclude that children can learn from both short and long form programming, but that long form programming can be most effective in certain kinds of teaching, such as cognitive skills including counting and reading. The tendency of broadcasters, without specification in the regulations, is to rely on short-form programming such as PSAs; we believe it would be selling children short to neglect long-form programming.

We also support the proposed requirement that such programming be "regularly" scheduled, and we further believe that "regularly scheduled" programming ought to consist of shows aired at least once a week in a regular time slot. We support this provision for several reasons. First, so that parents and children will know when to tune in; second, so that the shows can build an audience; and third, so that children can build on their learning experience on a daily or weekly basis.

We differ strongly with the Commission's proposed requirement that any program claimed to be "specifically designed" to meet children's needs have education as "a significant purpose." We strongly believe that such "core" programming ought to have education as the "primary" rather than a "significant" purpose. We take this position based in part on the record of industry compliance thus far with the Act, in which a substantial number of broadcasters have taken great license with the definition of educational or informational programming. Requiring core programming to have education as it's "primary" purpose clearly does not mean that education must be it's "exclusive" purpose; no broadcaster is likely to interpret this requirement as a prohibition on also making their programming entertaining. Indeed, broadcasters have an inherent incentive to make all of their programming entertaining, whether that programming is educational, documentary, drama, talk show or situation comedy. What broadcasters do not currently have, and what the Act is intended to provide, is an incentive to provide a small amount of programming that is primarily designed to serve the educational or informational needs of children. Should the Commission specify, as we believe they should, that "core" programming must have education as it's "primary" purpose, broadcasters will continue to have a market incentive to make that programming as entertaining as possible, and there will be less room for broadcasters to misinterpret the intentions of the Commission.

Additionally, we support the Commission's proposal that the educational objectives of the program, and the target child audience, be specified in writing. Given the wide array of questionable programs that broadcasters have submitted to the Commission as "educational," the process of specifying the educational purpose of such programs in writing would seem a wise one, beneficial to both the stations and to the Commission. Further, if broadcasters are airing programs that have education as either a "primary" or a "significant" purpose, a short specification of the objectives of the show would not seem a burdensome requirement.

We feel strongly that "core" programming should be aired during the hours of 7 a.m. and 10 p.m., which are reasonable hours to anticipate that children will be in the viewing audience. We strongly support the requirement that stations maintain a special file on their premises with a listing of their "core" programming, allowing parents and other concerned community members to access this information easily.

III. THE ADVANTAGES OF A PROGRAMMING STANDARD.

We endorse the proposal for a "programming standard" or rule with quantitative guidelines for broadcasters. We support this level of specificity because we believe that a lack of clear quantitative requirements creates a financial incentive for broadcasters to subvert the intent of the law. It is clear from the comments provided to the Commission that stations believe that airing educational programming costs them lower ratings and lost advertising revenues. Therefore, under the current, more vague guidelines, broadcasters have a perceived financial incentive to interpret the guidelines as loosely as possible; some broadcasters apparently believe that the way to lose as little in ratings and advertising revenue as possible is by providing as little educational programming as they think they can get away with, or by airing their educational programs during time slots that are already unprofitable.

A specific programming standard will put all broadcasters on a level playing field, removing the incentive for some stations to try to gain a competitive advantage over others in their market by interpreting the rules loosely. Once it is clear exactly how much educational programming each station must provide, and in what time periods, the competition will shift. Stations will then be competing to air the best quality, most

attractive and compelling educational programming in their market. In this manner, a programming standard will reward those who produce the highest quality, most entertaining educational and informational programming for children.

As compared to the "safe harbor" option, the programming standard has several advantages: first, it would reduce the possibility of unintentional non-compliance on the part of stations; second, it would reduce the workload of the Commission in reviewing applications of stations that have chosen an alternative route to meeting the requirements of the Act; and third, it would enhance the Commission's option of revoking a station's license, a powerful incentive for stations to comply.

IV. THE AMOUNT OF CORE PROGRAMMING TO BE REQUIRED.

The three hour weekly initial standard rising over time to five hours per week is significantly less than we believe appropriate. We believe the public interest would best be served by a minimum of one hour a day of educational programming for children. This standard seems to be an eminently reasonable amount for the Commission to require, particularly given the broadcaster reports that indicate that several hours a week of such programming is already being provided.

We do not believe there would be a significant economic cost associated with meeting either a guideline or a standard. Given that most stations report that they are already providing more than 3 hours a week of educational or informational programming, it seems unlikely that the adoption of a rule in this regard would substantially increase a station's costs.

We are intrigued by the proposal made by Richard Frank, President of the Academy of Television Arts and Sciences, in a speech to our organization and other media industry leaders, that a programming requirement should be based on attaining a certain amount of rating points. We support creative approaches to encouraging stations to air programming that is both educational and entertaining, and that attracts a wide child audience. However, we believe that this particular proposal would impose undue hardships on small stations and would prove unwieldy to enforce.

V. THE PROGRAM SPONSORSHIP OPTION.

We understand the Commission's desire to grant broadcasters as much flexibility as possible in meeting the requirements of the Act, and in particular we applaud the creativity of the "program sponsorship" option currently under consideration. However, while we understand the intent of this option, we do not believe it offers a practical solution to the current problem, and we are concerned that it could in fact result in the further marginalization of educational programming for children. Therefore, we strongly oppose adoption of the program sponsorship option.

VI. LICENSEE CERTIFICATION.

Given the Commission's frustration in attempting to assess the current level of compliance with the Children's Television Act, we believe it would be extremely detrimental to adopt a procedure allowing licensees to certify that they have aired the prescribed amount of core programming. The Commission should not be required to assess the effectiveness of its actions without adequate information. Members of the public and concerned organizations should also have the ability to easily monitor broadcasters' compliance, and a certification process would inhibit such monitoring.

In addition, to be frank, research has indicated that some stations will, left to their own devices, use extremely wide latitude in interpreting whether or not they have met the Commission's requirements. It does not seem to be an overly burdensome requirement to ask stations to submit to the Commission the documentation of compliance which they will already be required to maintain in their own files.

VII. CONCLUSION.

Children Now strongly supports the intent of the Children's Television Act to require broadcasters, in exchange for their use of the public airwaves and as part of their obligation to serve the public interest, to provide programming specifically designed to meet the educational and information needs of children. We agree with the Commission's conclusion that the current rules implementing the CTA have not been as effective as

hoped, and need to be revised. This is an historic opportunity, and we hope the Commission will seize this moment.

Refining the definition of core educational and informational programming and adopting a programming standard with quantitative guidelines will constitute a major step in fulfilling the goals of the Children's Television Act. It is clear from the record that only constant vigilance by the Commission is effective in ensuring broadcaster compliance with the Act, and that specific standards are necessary to prevent intentional or unintentional subversion of Congress's intent. The sooner this is done, the more children and our society will benefit.

###