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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of	)	
	)	
Technical Requirements to Enable Blocking of Video Programming based on Program Ratings	)	ET Docket No. 97-206
	)	
Implementation of Sections 551(c), (d) and (e) of the Telecommunications Act of 1996	)	

NOTICE OF PROPOSED RULEMAKING

Adopted: September 25, 1997 ; Released: September 26, 1997

Comment Date: [45 days after publication in Federal Register]
Reply Comment Date: [60 days after publication in Federal Register]

By the Commission:

I. INTRODUCTION

1. By this action, we propose to amend Part 15 of our Rules to require that most television receivers be equipped with features that enable viewers to block the display of video programming with a common rating. In addition, we propose to amend Parts 73, 74 and 76 of our Rules to ensure the ratings information that is associated with a particular video program is not deleted from transmission by broadcast television stations, low power television stations, television translator and booster stations, and cable television systems. We also propose that similar requirements should be placed on other services that can be used to distribute video programming to the home, such as Multipoint Distribution Service (MDS) and Direct Broadcast Satellite Service (DBS). We take this action in response to the Parental Choice in Television Programming requirements contained in Sections 551(c), (d), and (e) of the Telecommunications Act of 1996 (the Telecommunications Act)[1], which amended Sections 303 and 330 of the Communications Act of 1934.[2]

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[1] Pub. L. No. 104-104, 111 Stat. 56 (1996).

[2] 47 U.S.C. §§ 303 and 330.

2. The proposals contained in this *Notice of Proposed Rulemaking* are intended to give parents the ability to block video programming that they do not want their children to watch. They are also intended to provide a regulatory framework that will accommodate the possible development and use of multiple ratings systems, giving parents the flexibility to choose the ratings system that best meets their needs.

II. BACKGROUND

3. In the Telecommunications Act, Congress determined that parents should be provided "with timely information about the nature of upcoming video programming and with the technological tools that allow them easily to block violent, sexual, or other programming that they believe harmful to their children . . . ."[3] Accordingly, Congress (1) mandated the inclusion in most new television receivers of the so-called "V-chip" technology, which will enable viewers to block the display of all programs with a common rating,[4] and (2) authorized the Commission to "Prescribe . . . guidelines and recommended procedures for the identification and rating of [such] video programming, ..." if distributors of video programming do not establish acceptable voluntary procedures within one year.[5]

4. With respect to V-chip technology, Section 551(c) of the Telecommunications Act directs the Commission to adopt rules requiring that any "apparatus designed to receive television signals that are shipped in interstate commerce or manufactured in the United States and that have a picture screen 13 inches or greater in size (measured diagonally) . . . be equipped with a feature designed to enable viewers to block display of all programs with a common rating . . . ." Section 551(d) states that the Commission must "require that all such apparatus be able to receive the rating signals which have been transmitted by way of line 21 of the vertical blanking interval . . . ." That provision also instructs the Commission to oversee "the adoption of standards by industry for blocking technology," and to ensure that blocking capability continues to be available to consumers as technology advances.

5. With respect to the ratings, the Telecommunications Act directs the Commission, on the basis of the recommendations of an advisory committee, to prescribe guidelines and recommended procedures for the identification and rating of video programming, but only if the Commission determines that distributors of video programming have not: (1) established voluntary rules for rating video programming that contains sexual, violent, or other indecent material about which parents should be informed before it is displayed to children, and such rules are "acceptable to the Commission;" and, (2) agreed voluntarily to broadcast signals that

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[3] Pub. L. No. 104-104, *supra*, at § 551(a)(9).

[4] *Id.*, at § 551(c), (d).

[5] *Id.*, § 551(b)(1), (e)(1).

contain ratings of such programming.[6] On January 17, 1997, the National Association of Broadcasters (NAB), the National Cable Television Association (NCTA), and the Motion Picture Association of America (MPAA) submitted a joint proposal to the Commission describing a voluntary ratings system for video programming (the "industry proposal"). We have opened a separate proceeding, CS Docket No. 97-55, to consider whether this joint proposal meets the requirements of the Telecommunications Act.[7] On August 1, 1997, NAB, NCTA, and MPAA submitted a revised industry proposal. The revised filing provides for the display and transmission of certain content-based indicators in addition to the six age-based ratings categories. We have issued a public notice seeking comment on this revised proposal.[8]

III. DISCUSSION

6. We are adopting this *Notice of Proposed Rulemaking* to begin the process of requiring television manufacturers to include blocking technology in their television receivers and to ensure that any ratings information that is provided with video programming is transmitted to the television receiver intact and without disruption by any broadcast, cable television, satellite or other video programming distribution service. We recognize that, at this time, we have not yet determined whether any of the voluntary ratings systems proposed by industry are acceptable under the Telecommunications Act. Nevertheless, we believe that it is appropriate at this time to propose the technical transmission and manufacturing standards into which future decisions on the ultimate ratings system can be incorporated.

7. Blocking Technology Standard. The Telecommunications Act requires that our rules: 1) provide for Commission oversight of the adoption of industry standards for blocking technology; and 2) require television receivers to receive ratings signals that are transmitted via line 21 of the television vertical blanking interval (VBI) and which conform to industry standards. Line 21 of the VBI is currently used primarily for transmission of closed captions that allow the hearing impaired and other viewers to read a visual depiction of the information

[6] *Id.*, at § 551(e). Distributors of video programming were given 1 year from the date of enactment of the Telecommunications Act, until February 8, 1997, to meet these requirements.

[7] *See Public Notice*, "Commission Seeks Comment on Industry Proposal for Rating Video Programming," CS Docket No. 97-55, FCC 97-34, issued February 7, 1997, as modified by *Public Notice*, "Modification of Industry Proposal for Rating Video Programming (CS Docket No. 97-55)", DA 97-518, March 12, 1997.

[8] *See Public Notice*, "Commission Seeks Comment on Revised Industry Proposal for Rating Video Programming," CS Docket No. 97-55, FCC 97-321, issued September 9, 1997.

simultaneously being presented on the aural channel.[9] On a secondary, space-available basis, line 21 field 2 may also be used to transmit other data information.[10]

8. The Electronics Industry Association (EIA) has adopted an industry standard, EIA-608, "Recommended Practice for Line 21 Data Service," that contains information on data formats and specific data packets that may be sent using line 21. We have relied upon this industry standard to provide the specific information on how line 21 information should be transmitted and used.[11] On February 12, 1996, the EIA prepared for ballot a revision of EIA-608 that included, among other things, a proposal on how program ratings information could be transmitted on line 21 field 2.[12] However, after recognizing that the video programming industry was beginning to develop a program ratings system that might differ somewhat from the specific ratings system contained in the proposed revision, EIA prepared a further revision of EIA-608 that deletes the detailed rating system information.[13] The ballots for these revisions were approved within EIA. As a result, EIA-608 now provides a non-specific methodology on how program ratings information can be incorporated into other

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[9] *See* 47 C.F.R. § 73.682(a)(22).

[10] The television picture is divided into two "fields", which are interlaced to create the picture that is displayed on the television screen. Lines 1 to 21 of each field constitute the "vertical blanking interval," which allows the beam inside a television picture tube to move from the bottom of the screen, after displaying one field of the picture, back to the top of the screen. The vertical blanking interval can be used to send signalling and other information. Traditionally, closed captioning information has been sent using line 21 field 1. However, in 1993, we amended 47 C.F.R. § 73.682(a)(22) to allow line 21 field 2 to be used for closed captioning, as well as for text-mode data and extended data service information. *See* Amendment of the rules relating to permissible uses of the vertical blanking interval of broadcast television signals, *Report and Order*, MM Docket No. 92-305, 8 FCC Rcd 3613 (1993).

[11] *See* note in 47 C.F.R. § 73.682(a)(22)(i)(B). Part 15 of our Rules contains specific requirements on how television receivers must respond to closed captioning information transmitted on line 21 of the VBI. 47 C.F.R. § 15.119. EIA-608 supplements these requirements by providing information on how line 21 can be used to transmit optional caption features, text-mode data, and extended data services that can provide information about current and future programming.

[12] *See* Standards Proposal No. 3688, Electronic Industries Association, February 12, 1996. An extract of this proposed revision, containing the specific information regarding the transmission of program ratings information, has been included in the docket for this proceeding. A complete copy of the proposed revision, as well as the existing EIA-608, is available for purchase from the Electronic Industries Association, 2500 Wilson Boulevard, Arlington, VA 22201.

[13] *See* Standards Proposal No. 3688-1-A, Electronic Industries Association, May 10, 1996. A copy of this proposed revision has been included in the docket of this proceeding.

information that is transmitted on line 21 field 2. This methodology can be modified to allow for the use of one or more specific program ratings systems.[14]

9. We previously have found industry standard EIA-608 to be extremely helpful -- it has allowed television programmers, closed-captioning service providers and television receiver manufacturers to have a standard method for transmitting and using data information transmitted on line 21. It ensures compatibility between the various uses of this information and minimizes the need for government regulation in this area. Due to its broad acceptance within the industry and its applicability to the transmission of data on line 21, we believe that it is appropriate for us to rely on EIA-608 as providing the methodology for transmitting program ratings information. Accordingly, we propose that our rules be amended to require that all television receivers with picture screens 33 cm (13 inches) or larger, measured diagonally, shipped in interstate commerce, manufactured, assembled, or imported from any country into the United States, receive program ratings transmitted pursuant to industry standard EIA-608 and block video programming, both the video picture and the associated audio on both the main and second audio program (SAP) channels, based on a ratings level specified by the user of the television receiver.[15] To accomplish this, we propose to incorporate the appropriate provisions of EIA-608 into our regulations. Although we have tentatively concluded that EIA-608 is the appropriate standard to use, we invite comment on whether other technical standards for blocking technology are being developed or have been developed, and whether they should be used instead of or in addition to EIA-608.[16]

10. Multiple Ratings Systems. In comments filed in CS Docket No. 97-55 regarding the industry ratings proposal, several parties have indicated their desire for open standards and regulatory policies that would allow for the development and use of multiple ratings systems.[17] Some of these parties have also indicated that they are developing their own ratings systems that they would like to make available for general use.[18] Generally, we prefer

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[14] We understand that, on September 23, 1997, Committee R4 of EIA (the Committee which is responsible for EIA-608) agreed on changes to EIA-608 that would allow the implementation of the revised industry ratings proposal. This draft revision to EIA-608 still needs to be balloted within EIA before it becomes final. We will place a copy of this draft revision of EIA-608 in the docket of this proceeding once it becomes available.

[15] Once an acceptable ratings system is determined, we will work with EIA to incorporate the ratings system(s) into EIA-608.

[16] We note that the Advanced Television Systems Committee (ATSC) is also developing a possible standard for delivering ratings information for digital television, as discussed later.

[17] *See*, for example, Comments filed in CS Docket No. 97-55 by the American Medical Association, the Benton Foundation, the National Institute on Media and the Family, OKTV, and VideoFreedom, Inc. (April 8, 1997).

[18] *See* National Institute on Media and the Family Comments and OKTV Comments filed in CS Docket No. 97-55 (April 8, 1997).

an open, flexible approach to the development of industry standards and regulations that would accommodate the possible development of multiple ratings systems. Such an approach could give parents the flexibility to choose a rating system that best meets their needs.

11. Technically, the EIA-608 methodology could be used to transmit more than one ratings system for the same video program.[19] EIA-608 already supports the transmission of MPAA motion picture ratings (the familiar "G", "PG", "PG-13", "R", "NC-17" and "X" ratings that are used with movies shown in theaters). And EIA-608 can be easily modified to support the industry ratings proposal if it is ultimately accepted by the Commission.[20] It would also appear to be relatively simple to further modify EIA-608 to allow for the transmission and use of additional ratings systems that might be developed.[21] However, in CS Docket No. 97-55, CEMA has raised concerns that accommodating multiple ratings systems could make it more difficult for parents to use program blocking and could slow the delivery of ratings information to television receivers.[22]

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[19] *See* Consumer Electronics Manufacturers Association (CEMA) Reply Comments filed in CS Docket No. 97-55 (May 8, 1997). CEMA is the organization within EIA that represents the consumer electronics industry and is responsible for EIA-608.

[20] *See* CEMA Comments filed in CS Docket No. 97-55 at 3. The revised industry proposal specifies program ratings of "TV-Y" (programs designed to be appropriate for all children), "TV-Y7" (programs designed for children age 7 and above), "TV-G" (programs most parents would find suitable for all ages), "TV-PG" (programs that parents may find unsuitable for younger children), "TV-14" (programs that contain material that many parents would find unsuitable for children under 14 years of age), and "TV-MA" (programs specifically designed to be viewed by adults and therefore may be unsuitable for children under 17). Several of these categories may also contain indications of violence, sexual situations, language, and dialogue. *See Public Notice*, "Commission Seeks Comment on Revised Industry Proposal for Rating Video Programming," CS Docket No. 97-55, *supra*. As indicated previously, EIA has begun the process of modifying EIA-608 to address this revised industry ratings proposal.

[21] For example, EIA-608 could be modified to support, in addition, the content advisory systems that have been used by the Home Box Office (HBO) and Showtime cable television programmers, the ratings system that has been used in experimentation with blocking technology in Canada, or other ratings systems that have been discussed in CS Docket No. 97-55. The HBO content advisory system uses ratings such as "adult content", "adult language", "graphic language", "mild violence", "violence", "graphic violence", "brief nudity", "nudity", "strong sexual content", and "rape." We understand the Canadians have experimented with a four-category rating system that provides a general rating and a separate rating for violence, nudity, and language, with six levels within each rating category. Thus, for example, the rating levels for the violence category are "none," "comedic," "mild," "brief," "violent," and "graphic." Canadian Radio-television and Telecommunications Commission, *Respecting Children: A Canadian Approach to Helping Families Deal With Television Violence* (1996).

[22] *See* CEMA Reply Comments, CS Docket No. 97-55, *supra*, at 3.

12. We invite comment on how many ratings systems are likely to be developed that would involve transmissions on line 21 of the VBI.[23] We further invite comment on the specific ratings information and categories that these systems are likely to use. Under the presumption that the number of alternative ratings systems that are likely to be developed is relatively small, as evidenced by comments filed in CS Docket No. 97-55, and that EIA-608 can be modified to include the necessary ratings information for each of these systems, we are inclined to encourage, as part of our industry standards oversight role mandated by the Telecommunications Act, that EIA include the flexibility to accommodate such additional ratings systems within EIA-608. We also seek comment on whether to require that all television receivers that are subject to our blocking technology requirements be equipped to handle any alternative ratings systems contained in EIA-608. We invite comments on these proposals, and specifically on whether the capability to handle multiple ratings systems can be included in television receivers in a manner that will not lead to significant user confusion or significant added costs. We also invite comments on how these proposals should be modified if the anticipated alternative ratings systems cannot be accommodated within EIA-608 or if the number of alternative rating systems would lead to excessive user confusion. In addition, we invite comments on whether and how we should require television receivers to handle any ratings systems that may be developed in the future.

13. We recognize that it may not be practical or desirable for all ratings systems to be transmitted on line 21 of the VBI.[24] However, it is not clear as to what steps we could take to accommodate alternative ratings systems that are not transmitted on line 21. We understand that some television receivers and video cassette recorders (VCRs) already incorporate the ability to block video programming on a date/time/channel basis.[25] Such date/time/channel blocking capability could facilitate the use of alternative ratings systems that are not distributed by line 21. Section 330(c)(4) of the Communications Act, as added by Section 551(d) of the Telecommunications Act, directs the Commission to consider the existence of appropriate alternative blocking technologies and to permit use of a technology that: (1) "enables parents to block programming based on identifying programs without ratings"; (2) "is available to consumers at a cost which is comparable" to the cost of ratings-based technology; and (3) "will allow parents to block a broad range of programs on a multichannel system as effectively and as easily" as ratings-based technology. We seek comment on whether date/time/channel blocking capability would meet the requirements of Section 330(c)(4) and should be allowed as an alternative to blocking technology based on

[23] In this regard, we note that the amended industry proposal advocates carriage of not only the revised industry ratings system, but also the MPAA ratings and additional advisories that are currently used by several cable services such as HBO and Showtime.

[24] For example, some ratings services might prefer to deliver their ratings information on paper or via an electronic media, such as the internet or diskettes.

[25] That is, the user can program the television receiver not to receive a specific program that occurs at a specific time, on a specific date and specific channel.

line 21. Additionally, we seek comment on: 1) whether ratings are likely to be distributed via means other than line 21; 2) whether we have the legal authority, and whether there is a compelling public interest, to require both line 21 and date/time/channel blocking; and 3) whether there are other alternative blocking technologies that should be accommodated under our rules. In order to evaluate possible alternative blocking technologies, we solicit information regarding the cost of any alternative blocking technology, as well as the cost of implementing line 21 ratings blocking technology pursuant to EIA-608.

14. User Interface. We tentatively conclude that the program blocking technology should be implemented in as "user friendly" a manner as possible. Parents should be able to program their television receivers easily to block categories of programs they do not want their children to see with a common rating.[26] Similarly, we tentatively conclude that the program blocking technology should be secure enough to ensure that children cannot easily override their parents' decisions. EIA-608 currently does not contain information on these aspects. We invite comment on whether, as part of our industry standard oversight responsibility, we should request EIA to include in EIA-608 specific guidance for television receiver manufacturers on how parents should be able to program their television receivers to block programs and steps that should be taken to ensure that children cannot override blocking instructions. We also invite comment on whether such guidance should be included in our rules. Parties suggesting that guidance in these areas is needed should provide specific proposals for such guidance. Also, we invite comment on other requirements that may be necessary for us to implement.

15. Timing. Section 551(e)(2) of the Telecommunications Act requires that the Commission, after consultation with the television manufacturing industry, specify the effective date for the applicability of the program blocking requirement, and provides that the effective date shall not be less than two years from the date of enactment of the Telecommunications Act. Accordingly, we may not require that television receivers include program blocking capability until February 8, 1998, at the earliest. We understand, through informal consultation with TV manufacturers, that television receivers are typically introduced on an annual basis, with each new model year beginning around June 30. This means that television receivers that would be marketed in February, 1998, would have been introduced to the marketplace in mid-1997. The design cycles for these 1997 receivers would have been completed in early 1997. We also understand that the television manufacturers generally redesign only half of their products in any given year. Based on these considerations, we do not believe it would be reasonable to require television manufacturers to implement program blocking capability in television receivers beginning in February, 1998. Instead, we propose that television manufacturers be required to provide blocking technology on at least half of their product models with a picture screen 33 cm (13 inches) or greater in size by July 1, 1998. The remainder of the models would be required to contain blocking technology by July

[26] If a rating system contains more than one ratings category (such as age based and content based), users should have the ability to block programming using both ratings categories.

1, 1999. We believe that this proposed implementation schedule would accommodate the product development cycle of television manufacturers and ensure that television receivers with blocking technology are available in the marketplace as soon as possible.[27] We invite TV manufacturers, and other interested parties, to comment on this proposal. In particular, we seek information on the extent of changes that would be needed to television receivers to incorporate program blocking technology, how long it would take manufacturers to incorporate program blocking capability in television receivers during their normal course of re-design, and what the cost and benefits would be of accelerating this process. We recognize that we have not yet acted on the industry ratings proposals and that we will have to adopt final rules in this proceeding before television receiver manufacturers can be sure of the specific requirements that will be place on them. Therefore, we invite comment from television manufacturers on when final decisions on the industry ratings proposals and when final FCC technical rules and the EIA-608 standard would have to be adopted in order for them to meet the proposed implementation requirements.

16. Digital Television and other Future Systems. Section 330(c)(4) of the Communications Act, as added by Section 551(d) of the Telecommunications Act, requires that we take action to ensure that program blocking capability continues to be available to consumers as new video technology is developed. In this regard, we recognize that digital television (DTV) technology is beginning to be tested and that television stations intend to implement DTV operating on a commercial basis in the near future. Digital television is likely to provide additional capability for implementing program blocking systems because it has been designed to support transmission of a large volume of data compared to today's television. It will provide the ability to transmit, and make available to parents, significantly more ratings information than is possible with the existing analog television system.

17. On December 24, 1996, we adopted a standard for the transmission of digital television.[28] This standard is a modification of the digital television standard developed by the Advanced Television Systems Committee (ATSC).[29] The adopted DTV transmission

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[27] We note that Soundview Technologies of Greenwich, CT, has indicated that they intend to provide blocking technology converter boxes within 3-4 months after ratings system are adopted and line 21 ratings information begins to be transmitted. Soundview indicates that these converter boxes will be relatively inexpensive ($50-60) and will work with existing television receivers. *See* Letter from Soundview to Mr. Blair Levin, Chief of Staff to the Chairman, and Ms. Jackie Chorney, Senior Legal Advisor to the Chairman, dated April 24, 1997, a copy of which has been included in the docket for this proceeding.

[28] *See Fourth Report and Order,* Advanced Television Systems and Their Impact Upon the Existing Television Broadcast Service, MM Docket No. 87-268, 11 FCC Rcd 17771 (1996).

[29] *See* "ATSC Digital Television Standard", Doc. A/53, 16 September 1995. Copies of this standard can be obtained from the Commission's copy contractor or from the Advanced Television Systems Committee, 1750 K Street, N.W., Suite 800, Washington, DC 20006. It can also be obtained on the internet at http://www.atsc.org.

standard does not provide for transmitting program ratings information.[30] However, the ATSC has adopted a standard for transmitting a DTV program guide that includes provisions for transmitting program ratings.[31] This program guide information would be transmitted on a sporadic basis to provide information to viewers on current and future programming. We understand that ATSC has started further standards development work on how to transmit the rating information more regularly as part of the "transport" layer.[32] The ATSC standard may provide for the possibility of "downloadable" ratings; that is, ratings systems that could be changed periodically over time.[33] We understand that ATSC's goal is to complete its work in this area within the next several months. We invite comment on the current ATSC program guide standard and its usefulness in providing DTV program ratings information. We also invite comment on: 1) how often it may be necessary to transmit program ratings information within the DTV signal; 2) whether program ratings information should be transmitted outside of the DTV program guide service; 3) whether the capability to transmit downloadable ratings systems is desirable; 4) how such downloadable ratings systems should work; and 5) whether we should place different requirements for blocking technology for DTV as compared to the existing analog television (for example, requiring support for additional ratings systems), and if so, what sort of requirements. Pursuant to our standards oversight responsibilities, we will work to ensure that whatever conclusions are reached in this regard are considered by ATSC as they continue to develop DTV standards. We note that the DTV transmission standard provides the ability for either high definition television or multi-channel standard definition television (SDTV) programming to be transmitted. We tentatively conclude that the DTV program blocking standards must also provide the capability for ratings information to be transmitted for all video programming services that may be transmitted during either high definition television or multi-channel SDTV operation.

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[30] DTV will not incorporate a vertical blanking interval in its transmission signal. Instead, it will rely on a high data-rate stream of digital information that is transmitted continuously. The program ratings information will need to be encoded into the DTV transmission signal, and the DTV television receiver will need to properly decode and respond to this information.

[31] *See* "Program Guide for Digital Television", Doc. A/55, 3 January 1996, especially Annex C. We have placed a copy of the relevant portions of this standard in the docket in this proceeding. This standard is available in its entirety from ATSC, 1750 K Street, N.W., Suite 800, Washington, DC 20006, and on the internet at http://www.atsc.org.

[32] *See* Annex C of "ATSC Digital Standard", *supra*, for discussion of the transport layer. The DTV ratings blocking standards work is being done with ATSC's T3S8 Specialist Group on Service Multiplex and Transport Systems Characteristics. ATSC T3S8 is in the process of completing ATSC T3/S8 Doc. 193, "Program and System Information Protocol for Terrestrial Broadcast and Cable", which contains general information on how ratings information can be transmitted within the DTV signal. Copies of this document will be available from ATSC in the near future, and we intend to place relevant portions of this Document into the docket of this proceeding. We understand that additional work will need to be done within ATSC to specify in detail how US ratings systems can be transmitted and used.

[33] The television receiver might be able to provide the viewer with the ability to automatically use new ratings systems as they are implemented.

18. We have not adopted rules regarding DTV receivers. In particular, we note that our existing rules on closed-caption decoder requirements for television receivers will have to be updated to reflect the new encoding methods that will be used in DTV.[34] Similarly, we will need to develop rules for implementing the program blocking requirements in DTV receivers. We understand that EIA is developing a new DTV receiver standard that would be similar to EIA-608.[35] It would contain, among other things, guidance on how program blocking should be implemented within DTV receivers. We invite comment on how program blocking should be implemented within DTV receivers, including whether it should be done generally in the same manner as program blocking in standard analog television receivers. We also invite comment on whether there are steps we should take to ensure that blocking capability will continue to be available after the implementation of digital technology and whether we should allow the use of alternative blocking technologies in DTV receivers.

19. At this time, it is difficult to determine when the ATSC and EIA standards related to DTV program blocking will be completed. Thus, it is somewhat difficult to forecast when DTV receiver manufacturers would be able to provide program blocking capability within a DTV receiver. Nevertheless, we believe that all DTV receivers should include program blocking capability within a reasonably short period after a decision is reached in this proceeding. We recognize that some design work on DTV receivers has already started; however, it would appear that any program blocking requirements could be implemented rather quickly and easily through use of digital processing technology that will be contained in DTV receivers. Accordingly, we propose that all DTV receivers with picture screens of 33 cm (13 inches) or larger be required to include program blocking capability within a relatively short period of time, *e.g.*, within 180 days, after rules are adopted in this proceeding. We invite comment on the practicality of this approach. We are concerned as to whether a short deadline may cause delay in the availability of new DTV receivers, particularly given the lack of completed DTV standards and lack of information on how the program ratings information would be transmitted.

20. Distribution of Ratings Information. Video programming can originate and be transmitted through a variety of sources, including over-the-air television broadcasting, cable television systems, MDS systems including Multichannel MDS (MMDS) systems, DBS systems, and video platforms operated by local telephone companies. Each of these distribution methods uses different techniques to deliver the video programming. For blocking technology to function properly, the program ratings information must be properly encoded into the video programming and the distribution system must not adversely affect the ratings information. While we do not believe that video programming distributors would intentionally disrupt the availability of program ratings information, we recognize that they are constantly looking at ways of enhancing the value of their service, utilizing techniques to

[34] *See* 47 C.F.R. § 15.119.

[35] The ATSC is developing standards for transmitting and encoding DTV signals; EIA is developing DTV receiver standards for decoding and responding to transmitted DTV signals.

compress video programming and provide additional, non-program related data services. Some of the new technologies or services that they might adopt could inadvertently affect the ability of closed captioning and program related information to be provided to viewers of video programming.

21. Our existing cable television rules require that closed-captioning information that is contained within video programming be distributed intact and without disruption.[36] Similarly, our existing broadcast rules provide priority to closed captioning information as compared to other data information that might be transmitted on line 21.[37] Because both closed captioning and program ratings information will be transmitted on line 21, the existing rules may provide some indirect protection for the program ratings information. However, to avoid potential problems, we propose to amend Parts 73 and 76 of our rules to clarify that both cable television systems and television broadcast stations must not delete or modify program ratings information carried on line 21 of the VBI. These rules would continue to give highest priority within line 21 data services to closed captioning information; however, program ratings information would receive priority over other data information, such as program guide or text service information. We invite comment on whether our proposed priority system would have a negative impact on businesses using or planning to use line 21. We similarly propose to amend Part 74 of our rules to require that low power television, television translator, and television booster stations do not delete or modify in transmission line 21 captioning and program ratings information. We tentatively conclude that similar requirements should be placed on MDS, DBS, telephone, and other service operators that may distribute video programming to the home, including multichannel video programming distributors as defined in Section 602(13) of the Communications Act.[38] We seek comment on how this should be accomplished. We also seek comment as to whether similar requirements should be placed on those services that may be used to distribute video programming to cable television systems and other video service providers. Finally, we invite comment on whether any other technical rules are necessary to ensure that the program blocking technology will work with all video programming services.

22. Other Television Receiving Apparatus. We recognize that most video programming today is viewed on television broadcast receivers. Cable television systems, MDS, and DBS all convert the video programming signals they supply so that a standard television broadcast receiver can be used to view the programming. In the future, this may not be the case -- different receivers may be developed, sold and utilized depending on how

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[36] *See* 47 C.F.R. § 76.606. *See* also *Report and Order* in MM Docket 95-176, FCC 97-279, adopted August 7, 1997.

[37] *See* 47 C.F.R. § 73.682(a)(22)(i) and (ii), which require that line 21 of the television picture be used primarily for the transmission of closed captions, and indicates that other data can only be transmitted when captioning is not being transmitted.

[38] 47 U.S.C. 522(13).

the video programming is distributed. In addition, personal computer systems, which are not traditionally thought of as television receivers, are already being sold with the capability to view television and other video programming. Section 551(c) of the Telecommunications Act makes it clear that the program blocking requirements were intended to apply to any "apparatus designed to receive television signals" that has a picture screen of 13 inches or larger. Accordingly, we believe that the program blocking requirements we are proposing should apply to any television receiver meeting the screen size requirements, regardless of whether it is designed to receive video programming that is distributed only through cable television systems, MDS, DBS, or by some other distribution system. These requirements would also apply to any computer that is sold with TV receiver capability and a monitor that has a viewable picture size of 13 inches or larger, as we currently do for closed captioning.[39]

23. We note that DTV receivers and personal computers may employ similar digital technology. We also recognize that it is likely that plug-in circuit boards that allow personal computers to act as DTV receivers may eventually become available. We believe that it will also be relatively inexpensive for DTV receiver boards to include blocking technology.[40] Based on these considerations, we propose that all DTV receiver boards themselves (regardless of whether they are sold with a computer and monitor with a viewable picture size of 13 inches or larger) be required to include program blocking capability pursuant to the appropriate ATSC and EIA standards.

24. Finally, we recognize that the program blocking technology requirements that we are proposing would not prevent children from using VCRs to tape video programming that might be blocked if they were trying to view it on a television receiver. However, because VCRs generally record the line 21 information along with the program, it would appear that the blocking technology that is contained in the television receiver would block the viewing of that program when it is played back at a later time. Nevertheless, we invite comment on whether VCR technology could be used to delete the program ratings information and potentially expose children using VCRs to video programming that would otherwise be blocked. We also invite comment on whether cable decoder boxes, DBS converter boxes, and other commercially-available devices could be used, advertently or inadvertently, to defeat the blocking technology.

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[39] *See* FCC Public Notice, "Closed Captioning Requirements for Computer Systems Used as Television Receivers", DA 95-581 (March 22, 1995). Traditionally, the pictures sizes of computer monitors and television receivers have been measured differently: computer monitors are generally measured based on the overall size of the picture tube while television receivers are measured based on viewable picture size. As indicated in the Public Notice, the Commission applies its closed captioning requirements for computer systems based, in part, on the viewable picture size of the computer monitor. We are proposing to apply the program blocking requirements similarly in this proceeding.

[40] As indicated previously for DTV receivers themselves, we believe that any program blocking requirements for DTV receiver boards could be implemented quickly and relatively inexpensively through revision of software programming contained within (or provided with) the DTV receiver board.

IV. PROCEDURAL MATTERS

A. Regulatory Flexibility Act

25. As required by Section 603 of the Regulatory Flexibility Act, 5 U.S.C. § 603, the Commission has prepared an Initial Regulatory Flexibility Analysis (IRFA) of the expected impact on small entities of the proposals suggested in this document. The IRFA is set forth in Appendix A. Written public comments are requested on the IRFA. These comments must be filed in accordance with the same filing deadlines as comments on the rest of the *Notice of Proposed Rulemaking*, but they must have a separate and distinct heading designating them as responses to the Initial Regulatory Flexibility Analysis. The Secretary shall send a copy of this *Notice of Proposed Rulemaking*, including the Initial Regulatory Flexibility Analysis, to the Chief Counsel for Advocacy of the Small Business Administration in accordance with Section 603(a) of the Regulatory Flexibility Act, 5 U.S.C. § 603(a).

B. *Ex Parte* Rules -- Permit-But-Disclose Proceedings

26. This is a permit-but-disclose notice and comment rule making proceeding. *Ex parte* presentations are permitted, except during any Sunshine Agenda period, provided they are disclosed as provided in the Commission's rules. *See generally* 47 C.F.R. §§ 1.1200(a), 1.1203, and 1.1206.

C. Authority

27. This action is taken pursuant to Sections 4(i), 303(f), 303(r), 303(v), 303(x), and 330(c) of the Communications Act of 1934, as amended, 47 U.S.C. Sections 154(i), 303(f), 303(r), 303(v), 303(x), and 330(c).

D. Comment Dates

28. Pursuant to applicable procedures set forth in Sections 1.415 and 1.419 of the Commission's rules, 47 C.F.R. §§ 1.415 and 1.419, interested parties may file comments to the *Notice of Proposed Rule Making* on or before 45 days after publication in the Federal Register, and reply comments on or before 60 days after publication in the Federal Register. To file formally in this proceeding, you must file an original and four copies of all comments, reply comments, and supporting comments. If you want each Commissioner to receive a personal copy of your comments, you must file an original plus nine copies. You should send comments and reply comments to Office of the Secretary, Federal Communications Commission, Washington, D.C. 20554. Comments, and reply comments will be available for public inspection during regular business hours in the FCC Reference Center of the Federal Communications Commission, Room 239, 1919 M Street, N.W., Washington, D.C. 20554.

E. Further Information

29. For further information concerning this *Notice of Proposed Rulemaking*, contact Neal McNeil, Office of Engineering & Technology, at (202) 418-2408, via internet email at nmcneil@fcc.gov.

FEDERAL COMMUNICATIONS COMMISSION

William F. Caton
Acting Secretary

APPENDIX A

INITIAL REGULATORY FLEXIBILITY ANALYSIS

As required by Section 603 of the Regulatory Flexibility Act,[1] the Commission has prepared an Initial Regulatory Flexibility Analysis (IRFA) of the expected significant economic impact on small entities by the policies and rules proposed in this *Notice of Proposed Rule Making (Notice)*. Written public comments are requested on the IRFA. Comments must be identified as responses to the IRFA and must be filed by the deadlines for comments on the *Notice* provided above. The Secretary shall send a copy of this Notice, including the IRFA, to the Chief Counsel for Advocacy of the Small Business Administration in accordance with paragraph 603(a) of the Regulatory Flexibility Act.

A. Need for and Objectives of the Proposed Rules.

The proposed rules are intended to address the Parental Choice in Television Programming requirements contained in Sections 551(c) and 551(d) of the Telecommunications Act of 1996.[2] Congress has determined that parents should be provided "with timely information about the nature of upcoming video programming and with the technological tools that allow them to block violent, sexual, or other programming that they believe harmful to children. Accordingly, Congress (1) mandated the inclusion in most new television receivers of the so-called "V-chip" technology, which will be capable of reading program ratings and blocking programming, if requested, and (2) authorized the Commission to establish a rating system and rules requiring the transmission of program ratings if distributors of video programming do not establish acceptable voluntary procedures within one year.

B. Legal Basis.

The proposed action is taken pursuant to Sections 4(i), 303(f), 303(r), 303(v), 303(x), and 330(c) of the Communications Act of 1934, as amended, 47 U.S.C. Sections 154(i), 303(f), 303(r), 303(v), 303(x), and 330(c).

C. Description and Estimate of the Number of Small Entities to Which the Proposed Rules Will Apply.

For the purposes of this Notice, the RFA defines a "small business" to be the same as a "small business concern" under the Small Business Act, 15 U.S.C. § 632, unless the

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[1] 5 U.S.C. § 603.

[2] Pub. L. No. 104-104, 111 Stat. 56 (1996).

Commission has developed one or more definitions that are appropriate to its activities.[3] Under the Small Business Act, a small business concern is one that: (1) is independently owned and operated; (2) is not dominant in its field of operation; and (3) meets any additional criteria established by the Small Business Administration (SBA).[4]

The Commission has not developed a definition of small entities applicable to V-chip technology. Therefore, we will utilize the SBA definition applicable to manufacturers of Radio and Television Broadcasting and Communications Equipment. According to the SBA's regulations, television equipment manufacturers must have 750 or fewer employees in order to qualify as a small business concern.[5] Census Bureau data indicates that there are 858 U.S. companies that manufacture radio and television broadcasting and communications equipment, and that 778 of these firms have fewer than 750 employees and would be classified as small entities.[6] The Census Bureau category is very broad, and specific figures are not available as to how many of these firms are manufacturers of television equipment. However, we believe that many of the companies that manufacture television equipment will be affected by this rulemaking may qualify as small entities. We seek comments to this IRFA regarding the number of small entities to which the proposed rule pertains.

According to SBA regulations, a computer manufacturer must have 1,000 or fewer employees in order to qualify as a small entity. Census Bureau data indicates that there are 716 firms that manufacture electronic computers. Of those, 659 have fewer than 500 employees and qualify as small entities. The remaining 57 firms have 500 or more employees; however, we unable to determine how many of those have fewer than 1,000 employees and therefore also qualify as small entities under the SBA definition.

This proposal will begin the process of requiring television manufacturers to include blocking technology in their television receivers and to ensure that any ratings information that is provided with video programming is transmitted to the television receiver intact and without disruption by any broadcast, cable television, or other television program distribution services.

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[3] *See* 5 U.S.C. § 601(3).

[4] 15 U.S.C. § 632.

[5] 13 C.F.R. § 121.201, (SIC) Code 3663.

[6] U.S. Department of Commerce, 1992 Census of Transportation, Communications, and Utilities, SIC Code 3663 (issued may 1995).

D. Description of Projected Reporting, Recordkeeping and Other Compliance Requirements.

The Commission's rules require television receivers to be verified for compliance with applicable FCC technical requirements. See 47 C.F.R. Sections 15.101, 15.117, and 2.951, *et seq*. Documentation concerning the verification must be kept by the manufacturer or importer. The rules ultimately adopted in this proceeding will require that television receivers comply with industry-developed standards for blocking display of video programming based on program ratings. However, verification testing regarding program blocking is not necessary because compliance with the industry-developed standards, and the associated Commission rules, can be determined easily during the television receiver design process. The Commission may, of course, ask manufacturers and importers to document upon occasion how a particular television receiver complies with the program blocking requirements.

E. Significant Alternatives to Proposed Rules which Minimize Significant Economic Impact on Small Entities and Accomplish Stated Objectives.

Section 330(c)(4) of the Act directs the Commission to consider the existence of appropriate alternative blocking technologies and to amend its rules to permit, as an alternative to the ratings-based approach, use of a technology that: (1) "enables parents to block programming based on identifying programs without ratings"; (2) "is available to consumers at a cost which is comparable" to the cost of ratings-based technology; and (3) "will allow parents to block a broad range of programs on a multichannel system as effectively and as easily" as ratings-based technology. At this time, we are not aware of any such alternative blocking technologies. Accordingly, we invite comment regarding the existence of such alternate blocking technologies and whether it would be appropriate to permit them at this time in lieu of ratings-based blocking technology. In order to evaluate possible alternative blocking technologies, we solicit information regarding the cost of any alternative blocking technology as well as the cost of implementing ratings-based technology pursuant to EIA-608.

Section 303(x) of the Act makes it clear that the program blocking requirements were intended to apply to any "apparatus designed to receive television signals" that has a picture screen of 13 inches or larger. We believe that the program blocking requirements we are proposing should apply to any television receiver (including personal computers) meeting the screen size requirements, regardless of whether it is designed to receive video programming that is distributed only through cable television systems, MDS, DBS, or by some other distribution system.

F. Federal Rules that May Duplicate, Overlap, or Conflict with the Proposed Rules.

None.