

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

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In the Matter of)	
)	
Joint Voluntary Proposal for Video)	CS Docket No. 97-55
Programming Rating System of)	
National Association of Broadcasters (NAB))	
National Cable Television Association (NCTA) and)	
Motion Picture Association of America (MPAA))	

**JOINT COMMENTS OF
THE NATIONAL ASSOCIATION OF BROADCASTERS,
THE NATIONAL CABLE TELEVISION ASSOCIATION, AND
THE MOTION PICTURE ASSOCIATION OF AMERICA**

The National Association of Broadcasters, the National Cable Television Association, and the Motion Picture Association of America (“Joint Commenters”), hereby submit their comments on the Public Notice issued in the above-captioned proceeding.¹ The Public Notice seeks comment on the revised industry proposal for the rating of television programming (the “revised Guidelines”) that Joint Commenters submitted to the FCC on August 1, 1997. Programmers generally began using the revised Guidelines on October 1, 1997.

As our August 1, 1997, submission explains, the revised Guidelines add certain elements to the system of parental guidelines that the industry had previously submitted to the Commission. In addition to changing some of the descriptors associated with the six age-based categories of television programming, symbols have been added in certain

¹ “Commission Seeks Comment on Revised Industry Proposal for Rating Video Programming”, FCC 97-321 (released September 9, 1997) (hereinafter “Public Notice”).

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categories to describe material that is included in a particular program. The modifications to the Guidelines were developed collaboratively by members of the television industry and leading family and child advocacy groups.²

The Public Notice asks a series of questions regarding whether the revised Guidelines meet the standards set forth in Section 551(e) of the 1996 Act.³ We believe that the revised Guidelines surely do, and we urge the Commission to quickly conclude that they are “acceptable”.

DISCUSSION

In accordance with Section 551 of the Act, the Commission asks whether “video programming distributors have 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 whether these rules are “acceptable”. As we stated in our earlier submission, the revised Guidelines clearly satisfy this test.

The revised Guidelines were developed through extensive consultation with parents and members of the advocacy community. They achieve Congress’ goals of providing parents with an effective tool to control their children’s television viewing. This tool will become even more effective when the “V-chip” becomes available.⁴ The ratings

² August 1, 1997 Submission at Attachment 2.

³ Joint Commenters previously submitted detailed information about the voluntary industry guidelines and their revision. Submission dated January 17, 1997; Joint Reply Comments dated May 8, 1997; and Submission dated August 1, 1997. We incorporate these earlier filings by reference.

⁴ The FCC commenced a rulemaking on technical standards for the V-chip less than two weeks ago. Technical Requirements to Enable Blocking of Video Programming Based on Program Ratings, ET Docket No. 97-206 (rel. Sept. 26, 1997).

information will be encoded on line 21 of the vertical blanking interval and will be transmitted to television sets along with the program. Once manufacturers incorporate the V-chip into television sets, parents will be able to use the V-chip to better control their children's viewing. In addition, ratings will appear on-screen and will be provided to newspapers and to electronic program guides.

The revised Guidelines, through their use of the symbols V, L, S, D, as well as the content descriptions of the six age-based categories, provide very specific information about programming "that contains sexual, violent, or other indecent material about which parents should be informed before it is displayed to children". Accordingly, parents who wish to prevent their children from seeing a whole category of programs oriented in theme or content to older viewers will be able to do so. Parents who instead are interested in controlling their children's access to particular types of content will also be provided with the information they need.

Accordingly, for these reasons, and for the reasons stated in our earlier submissions, the revised Guidelines advance Congress' stated goals in adopting Section 551, and therefore the Commission must find them "acceptable" under the 1996 Act.

The Public Notice also asks whether "the Commission should determine the acceptability of any alternative systems used by video programming distributors."⁵ That clearly is an area where the Commission need not and should not tread. We do not claim that the revised Guidelines are the only system that could be "acceptable" under the statute.

⁵ Public Notice at 4.

But it is the only system that is before the Commission. The issue of whether any system *other* than the industry system is “acceptable” is simply irrelevant to the task at hand -- determining whether the revised *industry* system is acceptable. Whether every entity within the industry uses the same system is not the point.

That the Commission’s sole focus need be on the industry-submitted system is clear from the structure of the Act and its legislative history. The Conference Report on the Act explains that the FCC only has power to appoint an advisory commission if the Commission determines “[t]hat distributors of video programming have not established an acceptable voluntary system for rating video programming nor agreed voluntarily to broadcast signals that contain ratings of such programming...”⁶ Congress envisioned that industry would “voluntarily develop a rating system to guide parents...”⁷ Congressman Markey explained that this provision would lead to “[t]he development of a *model rating system*...”⁸ Thus, Congress contemplated that the Commission would determine the acceptability of one system -- the system developed by the industry.

The Joint Commenters have presented the Commission with precisely what Congress envisioned. The three major industry trade associations, acting with and on behalf of their members, have developed an industry-wide system of guidelines for rating programming

⁶ H. Rep. No. 458, 104th Cong 2d Sess. 195 (1996) (emphasis added) (hereinafter “Conf. Rep.”)

⁷ 142 Cong. Rec. S702 (Statement of Senator Conrad) (daily ed. February 1, 1996) (emphasis added); see also *id.* (urging “television broadcasters, cable operators, and other video programmers to take advantage of the 12-month period... to voluntarily develop an identification or rating system that will help parents to make informed decisions about television programming that is appropriate for children.”)

⁸ 142 Cong. Rec. H1171 (Statement of Congressman Markey) (daily ed. February 1, 1996) (emphasis added).

shown on broadcast and cable television. The associations have distributed the guidelines to the entire industry for use. And the revised Guidelines are generally used by the industry. In developing an industry-wide system, the industry has done what Congress expected. That should be the end of the inquiry.

Determining whether any other system used by a programmer is “acceptable” is not only unnecessary under the Act, but also goes beyond the Commission’s authority. Congress made clear that use of the industry-developed guidelines is *voluntary*. Congressman Markey, for example, explained that “[u]nder this bill, no program will ever be rated unless industry participants decide to do the ratings themselves. No government entity will ever rate a show; no government bureaucracy will ever rate a show; *no government agency is empowered to sanction any broadcaster for refusing to rate a show.*”⁹ The Conference Report also makes clear that the Act contains no obligation that “any particular program be rated.”¹⁰ The Act thus allows individual programmers to choose not to rate at all. It follows that the Act permits individual networks to choose to use a variation of the industry-developed guidelines -- regardless of whether those networks’ method of providing information to parents has been adjudged “acceptable” by the Commission or not.

In short, there is only a single system that the Commission needs to consider under the Act -- the voluntary industry-developed system submitted by Joint Commenters. The fact that the system is not being used universally throughout the industry does not

⁹ *Id.* (emphasis added).

¹⁰ Conf. Rep. at 195.

undermine its "acceptability". The Commission need not decide whether any other system would be acceptable, any more than it can require any particular programmer to use the industry-adopted system.

CONCLUSION

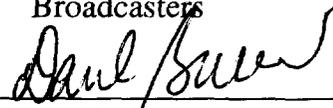
The revised Guidelines provide parents the information that Congress desired. Coupled with the V-chip, they will prove to be a helpful tool for blocking programming that parents do not wish their children to watch. We urge the Commission to quickly conclude this proceeding, and to determine that the revised Guidelines are acceptable.

Respectfully submitted,



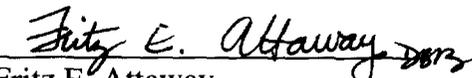
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October 6, 1997