Independent production is often a prime opportunity for the non-mainstream to be heard, including persons of color and cultural minorities, thereby adding to the plurality of voices represented in our mass communications. Therefore, our recommendations on diversity should serve to aid independent producers both in providing funding for programming and providing incentives for giving these voices access to the airwaves. Our recommendations should result in providing revenues to support the creation and promotion of programming from diverse and independent producers to air on noncommercial channels.

The Advisory Committee also believes that hiring and promotion policies that result in significant representation of minorities and women in decision-making positions in broadcast management could tend to increase programming diversity. While this effect may be difficult to prove or quantify, we believe that such policies (as well as policies facilitating station ownership by minorities and women) are important in their own right, apart from any direct impact on programming diversity. Digital television will gradually create new programming and business opportunities. The Advisory Committee recommends that broadcasters voluntarily redouble their individual and collective efforts during the digital transition to encourage effective participation by minorities and women at all levels of the industry.

Serving diverse interests within a community is both good business and good public policy. Broadcasters should aggressively seek out ways to employ digital technology in creative ways to accomplish this goal, including but not limited to those described above.

New Approaches to Public Interest Obligations in the New Television Environment

10. Although the Advisory Committee makes no consensus recommendation about entirely new models for fulfilling public interest obligations, it believes that the Administration, the Congress, and the FCC should explore alternative approaches that allow for greater flexibility and efficiency while affirmatively serving public needs and interests.

The broadcast world will soon change from one with some stability and certainty—one analog signal for each broadcast station, operating usually 24 hours a day—to one with unpredictability, uncertainty and fluidity. Some broadcasters will operate one signal, as before, only in digital instead of analog. Some may operate multiple signals, perhaps two, perhaps many more, throughout the day and night. Others will shift between one high-definition channel and multiple channels. Others will add datacasting to the mix. Applying existing public interest obligations to this variegated universe will not be easy, and will certainly not entail a simple one-for-one exchange.

Looking ahead to the digital era, where the flexibility to fit the different patterns that will develop and that will change over time will be increasingly important, many members of the
Advisory Committee believe that the Administration, the Congress and the FCC should consider developing a whole new model of public interest obligations.

There are many models to consider. For many of us, a very promising approach would be to move to a kind of "pay-or-play" model. Under this model, broadcasters would be given the choice of maintaining the existing regime of public interest obligations, or of paying a share of revenues to bypass those obligations, while receiving in return an expedited license renewal process. Another option is embodied in a proposal made several years ago by Henry Geller, a telecommunications scholar and former FCC general counsel. Geller would implement a mandatory "pay" system whereby all broadcasters would be relieved of their public interest obligations in exchange for 2 percent of their gross revenues and 1 percent of the revenues from license transfers. The money collected under the Geller plan would be used for an endowment for public broadcasters, other noncommercial telecommunications entities and noncommercial programming, including programming for children, and for free time for political candidates. These options, and others that have been suggested to the Advisory Committee, are described in Appendix D.

The revenues received could then be used to enhance the public interest, by funding noncommercial public interest programming and services, especially locally originated and oriented programming and services. All broadcasters, of course, would still have to adhere to all statutory requirements and provide closed captioning, emergency reports, and reasonable access to political candidates. But allowing some stations, including religious and shopping channels, to pay in lieu of other public interest obligations would not only be less cumbersome, it would free up resources that could be used to enhance the public interest. A "pay-or-play" type model would replace the traditional regulatory approach with a marketplace model analogous to the trading of "pollution rights" in environmental regulation.

Advocates of pay-or-play on the Advisory Committee include broadcasters and non-broadcasters alike, attracted to the freedom of choice it provides to broadcasters, its simplicity, and the opportunity under the model to more efficiently allocate resources in the public interest.

But several Advisory Committee members objected vigorously to the very idea of pay-or-play, arguing that it would damage or destroy the ethos of public trusteeship on which broadcasting had been built. Some broadcasters likened pay-or-play to the Civil War era policy allowing wealthy individuals to buy their way out of military service. Others had practical objections, wondering how it would be possible to set up an equitable fee structure for the "pay" option, and how to allocate the revenues achieved to enhance the public interest.

Some critics worried that pay-or-play would result in broadcasters dropping all public interest-oriented programming, leaving public interest programming segregated on public broadcasting outlets, resulting in less exposure by citizens to important information on public affairs or programming for children or others.

It was clear from our spirited discussions that the Advisory Committee would come to no consensus on any specific alternative model of public interest obligations. It was worthy of
note that the divisions in viewpoint represented in the Advisory Committee were not predictable, based on affiliation or general perspectives. Even though we make no consensus recommendation in this area, we do believe that regulatory authorities, industry groups and public interest groups should explore carefully the range of alternative approaches to public interest obligations by broadcasters in the digital age, looking towards eventual adoption of a model that builds in more flexibility and efficiency while serving public needs and interests.

ENDNOTES

1 Of course, no imaginable system really involves total ‘deregulation’ in the sense of no government involvement. Any system of broadcasting must and will depend on a positive role for government. Genuine *laissez-faire* is not an option in light of the need, at minimum, for government to manage the spectrum and minimize interference.

2 *See* 47 C. F. R. §3526 (a)(8)(i), (iii) and 47 C.F.R. §3527 (a)(7).

3 In addition to the following categories, the Advisory Committee assumes that the Children’s Television Act will apply to digital broadcasting as it does to analog.


5 *See e.g.*, 47 U. S. C. §336(a)(1) (limiting “the initial eligibility for [advanced television service] licenses to persons that . . . are licensed to operate a television broadcast station or hold a permit to construct such a station”).


7 *See* 47 U. S. C. §336(c); *see also* Balanced Budget Act of 1997, Pub. L. No. 105-33, 111 Stat. 251, adding new section 309(j)(14)(A), (B), and (C) to the Communications Act.


10 47 U. S. C. §315(b)(1), (2).

11 With certain exceptions, the Communications Act of 1934 requires that “[i]f any licensee shall permit any person who is a legally qualified candidate for any public office to use a broadcasting station, he shall afford equal opportunities to all other such candidates for that office in the use of such broadcasting station.” 47 U. S. C. §315 (a).

12 The Working Group is an interagency body that evaluates and fosters ways to integrate public and private resources and infrastructure as it relates to natural disasters. It attempts to ensure that accurate and timely technical information about natural disasters is available instantly to everyone who can take action to save lives, reduce damage, and enhance response and recovery. Pursuant to FCC rules, the Federal Emergency Alert System
RECOMMENDATIONS OF THE ADVISORY COMMITTEE

(EAS) is designed to disseminate local, regional, and Federal information using radio, television and cable channels. 47 C.F.R. Part 11.


14 The FCC exempted certain programming from its captioning mandates. The 75 percent requirement for “pre-rule” programming refers to programming that was first exhibited or produced prior to January 1, 1998, the effective date of the FCC’s captioning rules.


17 Communications Act of 1934, § 713(f) (codified at 47 U. S. C. 613 (f).

Section IV.
Separate Statements

Joint Statement of Leslie Moonves and Norman Ornstein, Co-chairs

Many of the issues surrounding public interest obligations and broadcasting have been charged with controversy for decades. The controversy does not disappear with the advent of digital technology; indeed, in many areas, it intensifies. This reality was apparent when President Clinton appointed us as co-chairs of his Advisory Committee on the Public Interest Obligations of Digital Television Broadcasters. By choosing a broadcaster and a non-broadcaster, the President hoped to bridge the gaps and come to some broad consensus about the best avenues to serve the public interest in the digital broadcasting age.

The two of us share many values in common, including a strong belief in the historic public trustee role of the broadcasting community. But we also have different perspectives on the appropriate role of Government in the regulation of broadcasting. Our goal throughout our deliberations has been to bridge our own gaps in viewpoint and perspective, while also providing a reasonable and innovative middle ground for the 20 disparate individuals who joined us on the Advisory Committee.

It would have been far easier to divide into two hostile camps, draw up “wish lists” to fit our own views, vote them up or down, and let the fights spill over into the political and policy arena after we went out of business. It would have been easy for Ornstein, because, with more non-broadcasters than broadcasters on the panel, his individual views would probably have been able to prevail. But it would also have been easy for Moonves to retreat to the rhetoric that some broadcasters have used when feeling threatened by Government and be applauded by his most vociferous colleagues as a champion of the industry.

Neither of us believed that position-taking and posturing would advance in any way the important debate that is needed on the public interest in the digital information age. So our focus throughout the past 15 months has been to find areas of consensus. That has frequently been quite difficult. Our deliberations have been often characterized, in diplomatic parlance,
by “frank and full” discussions—meaning, in plain language, contentiousness and sharp differences of opinion. But we applied an inclusive process, providing ample opportunities for each of our members to have input, and trying to accommodate strong individual views.

In the end, for the two of us and the overwhelming majority of the Advisory Committee’s members, the desire to reach a broad consensus prevailed. As an Advisory Committee without any line authority, our power, if any, will come from the weight of our ideas and the credibility of our members. Appropriately, we have left many specifics to be worked out in the political and policy arenas—without, we hope, the baggage that would have accompanied a divided majority/minority report.

As the collection of individual views demonstrates, none of our members would have written this exact report if given unilateral power. That is true for the two of us. Moonves would have preferred a report relying more on volunteerism and cooperation than on Government mandates. Ornstein would have preferred a report with more requirements of broadcasters, especially in the area of free time for political candidates. (Both of us, however, strongly support the notion that, if Congress undertakes to enact comprehensive campaign reform, broadcasters should commit firmly to do their part to reform the role of television in campaigns.) Even if there are areas where the two of us would have taken different paths, we are both satisfied that the recommendations are a reasonable and appropriate balance.

In the individual views, most of our members have indicated their support for the overall report and recommendations, while pointing out the areas where they individually disagree. The disagreements with specific items range from qualified criticism to all-out opposition. But every recommendation we have made enjoys solid support from the bulk of our members. We are pleased that the overwhelming majority of our members, broadcaster and non-broadcaster alike, chose the consensus route. We look forward to joining with them in the debate over these issues that is sure to follow.

Statement of Charles Benton, Frank M. Blythe, Peggy Charren, Frank H. Cruz, Richard Masur, Newton N. Minow, Jose Luis Ruiz, Shelby Schuck Scott, Gigi B. Sohn, Karen Peltz Strauss, and James Yee; Cass R. Sunstein and Robert D. Glaser join in Part I only

I. Political Discourse
The FCC should require broadcasters to provide a reasonable amount of “free time,” to national and local political candidates, under conditions that promote in-depth discussion of issues and ideas.

The Advisory Committee's recommendations on political discourse are well-intentioned, but insufficient.
We recommend that, unless Congress enacts comprehensive campaign finance reform legislation by the end of 1999:

- The FCC should require broadcasters to provide "free time" to national and local candidates for candidate-centered discourse;
- The FCC should consider whether a portion of this "free time" should be administered by political parties;
- In implementing this obligation, the FCC should consider whether it should specify an administrative scheme such as the "time bank" or "voucher" models presented to the Advisory Committee by the Alliance for Better Campaigns and the Center for Governmental Studies; and
- The FCC should give broadcasters broad discretion over the format of candidate appearances, except that qualifying "free time" segments must be of no less than 1 minute in duration, and the candidate should appear for no less than one-half of the duration of the segment.

The Advisory Committee recommendations on political discourse include, among other things: (1) a challenge to broadcasters to support "free time" proposals that are part of comprehensive campaign finance reform legislation and (2) broadcasters' voluntarily providing 5 minutes per night of free candidate-centered discourse. For the reasons discussed below, we believe that these recommendations will likely fall short of achieving the very worthy goals of ensuring that citizens have broad access to candidate speech that results in informed decisions at the ballot box and reducing the influence of money on the political process.

First, despite what appears to be majority support in both Houses, Congress failed to pass comprehensive campaign finance reform last year, and is unlikely to do so in the future. Despite this fact, it is possible that campaign finance reform legislation will be reconsidered. However, if Congress does not pass comprehensive campaign finance reform, including a "free time" component, by the end of 1999, the FCC should require broadcasters to provide a modest amount of free candidate-centered discourse. This approach allows Congress to have the first opportunity to act to broaden political speech. If Congress does not act, we believe that it is necessary for the FCC to step in.

Second, we believe that exclusive reliance on voluntary standards in this area will be ineffective. Many broadcasters provide candidate-centered discourse today and the new mandate will not affect them. Rather, this obligation is directed at the substantial number of broadcasters that have chosen not to do so. There is no reason to believe that voluntary standards will impel those broadcasters that choose not to carry any such programming to do so now. It is this reasoning that led the Advisory Committee to recommend mandatory minimum requirements for local public affairs programming and public service announcements. In light of the expanded capacity and increased opportunities that digital transmission will provide for broadcasters, the burden on broadcasters of providing a minimal amount of free candidate-centered discourse would be small. Among other things, the FCC has ruled that, under 47 USC §315, providing "free time" does not reduce a broadcaster's lowest unit rate to zero.
Although we recommend that the FCC should require broadcasters to provide "free time," the obligation should not be unlimited. The Advisory Committee has been presented with several "time bank" and "voucher" models that would result in broadcasters providing very modest amounts of "free time" for political candidates 60 days before a general election. It has also considered other models that would require broadcasters to provide some specific amount of time (for example, 5 minutes a night for the 60 days before an election). Although we do not endorse any particular model, we believe that the FCC should consider these well-conceived proposals, along with such other new proposals as may emerge in fashioning the "free time" requirement. None of these models will unreasonably burden broadcasters, and all provide them with flexibility in the choice of the format.

The goal of ensuring an informed electorate will not be achieved, however, if the benefits of "free time" are used only for 30 second attack ads and 7-second sound bites that are segregated onto one of multiple channels. If the FCC provides a benefit of "free time," it may, and should, also require that this time be of a specified minimum length, and that candidates actually appear for a specified amount of time. It should also prohibit broadcasters from segregating the candidate-centered programming onto one of multiple program channels. Such segregation would violate Federal candidates' rights to "reasonable access" to the broadcast airwaves, and might also violate candidates' rights to equal opportunities.

II. Mandatory Minimum Standards

The FCC should adopt processing guidelines based upon 3 hours per week of local news and 3 hours per week of locally originated or locally oriented educational and/or public affairs programming outside of local news.

We agree with the principle underlying the Advisory Committee's recommendation on mandatory minimum public interest requirements—broadcasters should be required to provide some minimum amount of public interest programming in return for the free use of the public airwaves. We write separately to address the absence of specific minima in the Report. At the very least, we believe it is critical to specify how many hours per week of each type of public interest programming should be carried, and to specify the time period in which it should be carried (to ensure that such programming is not relegated to hours when few viewers are watching).

In addition, to ensure that all broadcasters serve the public interest, the FCC should adopt minimum public interest requirements that are stronger and more specifically targeted to address the absence of local news and locally originated and locally oriented educational and public affairs programming over many broadcast stations.

We recommend, therefore, that the FCC adopt a processing guideline calling for 3 hours per week of local news and 3 hours per week of locally originated or locally oriented educational and public affairs programming outside of local news. A broadcaster that airs this minimum amount would receive automatic approval of that portion of its license renewal application that addresses local programming. Local programming, outside of local news, should be
dedicated to programming that addresses issues of local importance and/or is specifically tailored to meet a need in the community that is otherwise underserved, including minority communities. To ensure that such programming is not buried in “graveyard” time periods, the Commission should specify that a significant amount of this programming should be aired between 6 p.m. and 11 p.m. and that no programming to fulfill this mandate should be aired before 7 a.m. or after 11 p.m. Public service announcements would not fulfill this requirement.

The proposed recommendation has its roots both in the Communications Act of 1934 and the Telecommunications Act of 1996. Under the 1934 Act, television broadcasters are licensed to serve localities to which they are licensed. It has long been understood both by the FCC and by broadcasters that at the core of this local licensing requirement is an obligation that broadcasters provide locally originated and locally oriented programming. Most broadcasters take this obligation to serve as public trustees for their communities seriously, and consequently provide programming that meets local needs. However, evidence presented to the Advisory Committee demonstrates that a significant number of broadcasters provide neither local news nor local public affairs programming, and avoid controversial topics, no matter how important.

As discussed above, broadcasters receive a license to use public spectrum free of charge in exchange for providing inkind payment through programming services that are not market-driven. Under the same rationale, the FCC, pursuant to Congress’ mandate in the Telecommunications Act of 1996, gave incumbent broadcasters free additional spectrum (for a period of no less than 9 years) to convert to digital TV. In the 1996 Act, Congress emphasized three times the need for digital broadcasters to provide programming and services that serve the public. The processing guidelines discussed above will ensure that broadcasters that provide little or no local programming do not benefit from the free grant of spectrum in the digital world. We believe that these guidelines would not burden those broadcasters who already provide adequate amounts of local news and programming.

III. Multiplexing

The FCC should not consider a broadcaster’s revenues in determining when new public interest obligations attach for multiplexing.

We agree with the broad principle, and most of the specific provisions, contained in the Advisory Committee’s recommendation on multiplexing. Broadcasters that use their free, extra public spectrum to provide more services and garner extra revenue should provide increased public service.

We write separately to address one issue.

We do not believe that the FCC should consider a broadcaster’s revenues in determining whether new public interest obligations attach. The Report suggests that new obligations should attach “upon the extra channels reaching a particular revenue goal.” Conditioning the
provision of public service on broadcasters' revenues will ensure that such service is never provided. Creative accounting can always ensure that any revenue "goals" the FCC adopts will never be attained, especially because much broadcasting revenue is traditionally obtained via "trade-outs" for inkind goods and services.

Importantly, consideration of revenues is unwarranted in light of the fact that broadcasters have been given multiple billions of dollars worth of public airwaves, at no cost, to convert to digital TV. Moreover, the ability to multiplex gives broadcasters far greater opportunities to increase revenues than are available today. Digital transmission technology currently permits broadcasters to provide at least five to six video programming streams of quality equal to today's television picture, as well as other nonprogramming services such as data, paging, internet, and telephone services. Rapid advances in digital compression will likely expand that capacity even more. Additional public service obligations should be commensurate with these additional benefits, and should not be conditioned on whether those services generate a predetermined amount of revenue or profit.

Statement of Charles Benton on Funding New Education Digital Broadcast Channels, in which Frank M. Blythe, Peggy Charren, Frank H. Cruz, Newton N. Minow, Cass R. Sunstein, Gigi B. Sohn, and James Yee join

The Administration and Congress should fund additional noncommercial spectrum capacity and noncommercial educational programming through a combination of several of the following options: (1) spectrum auctions; (2) digital broadcast ancillary and supplementary service fees; (3) pay or play fees; (4) a "2 percent solution" of a 2 percent fee on the sale of broadcast and/or telecommunications properties and a 2 percent fee on broadcasters' gross revenues; and (5) allocation of funds for this purpose through the reauthorization of Federal legislation supporting educational institutions, including the Elementary and Secondary Education Act, in 1999.

The recommendations of the Advisory Committee include a new and imaginative dedication of capacity to expand the flow of information and communication to students within and beyond our traditional school systems. This recommendation will be a hollow promise if Congress does not act to fund this potentially powerful capacity. The acquisition and use of knowledge will be the major resource for our society in the coming century and is pivotal for democracy, our quality of life, our economic development, and indeed our security. Without adequate funding we risk repeating the history of other noncommercial capacity reserves such as the marginalization of cable's public access, education, and government (PEG) channels, with franchise fees going into the general budgets of municipalities rather than being invested in public interest programming.
The Advisory Committee’s recommendations propose that Congress and the Administration examine three funding sources for the new educational capacity: (1) spectrum auctions, (2) digital broadcast ancillary and supplementary services fees, and (3) “Play or Pay” fees. Items 1 and 2 might have been appropriate and sufficient funding sources but unfortunately have already been scored to balance the Federal budget. Moreover, the Federal Communications Commission’s recent decision to levy a 5 percent gross receipts fee on only the most narrow set of “ancillary or supplementary” services will ensure that this source of funding will be inadequate. Item 3, Play or Pay fees, is a good first step in suggesting alternative funding sources, but is unlikely to generate the predictable funding mechanism needed to support this new capacity.

For these reasons, we suggest new funding mechanisms to support new educational outlets and programming in the age of digital broadcasting. These mechanisms should include a 2 percent fee on the sale of broadcast and/or telecommunications properties and a 2 percent fees on the gross revenues of broadcast, cable, and satellite operators. This “2 percent solution” will provide the predictable funding mechanism needed to support what would then become the Advisory Committee’s greatest legacy: a new local, educational telecommunications infrastructure. The programming provided on this infrastructure could address the educational needs for every American from preschooler to university student, from youngster to lifelong learner.

In an increasingly competitive global economy, it should be noted that other countries are making much better use of television in education than we are. For example, in England there are dedicated public and commercial school television services that now spend more than $50 million per year in producing new programs for school use. We spend a tenth of that for new school productions in a country with four times as many people. Further, the United Kingdom has adult education, training, and lifelong learning broadcast services that annually invest tens of millions more in new programming for public use. Digital television could bring computers and television together to meet educational needs in powerful new ways we can hardly imagine.

Therefore, the Administration and Congress should realize the special opportunity to examine these funding opportunities while reauthorizing the Elementary and Secondary Education Act in 1999. Some $20 billion from the Federal Government are made available annually for education; a portion of these funds should be allocated to educational institutions, libraries, and other community-based groups for access to the public airwaves with new educational programs for “the public interest, convenience and necessity.” To ensure the participation of communities, Congress should require matching local funds to ensure multi-institutional cooperation around shared goals.

The full powers of digital television need to be mobilized for addressing our educational challenges in the next century.

As the Advisory Committee on Public Interest Obligations for Digital Television Broadcasters issues its Report, I wanted to express my concurrence with most of the Report’s content.
Statement of Frank H. Cruz, in which Frank M. Blythe and Newton N. Minow join

Under the Chairs' leadership, we have crafted a document that will help guide broadcasting's future as it transitions into the digital age. However, I must register my strong concern that the Report does not go far enough in securing the role for public broadcasting in the digital future. My concerns center around the lack of an endorsement for public broadcasting as the entity that operates the new educational public interest channel, and the fact that the Report does not discuss cable television's carriage of a public service broadcaster's digital signal.

To begin, I wanted to commend the Report for recognizing the vitality of equal opportunities for all Americans in broadcast ownership, employment, and programming. As the Report acknowledges, opportunities for women and minorities should be fostered at all levels of broadcasting. The rationale for this policy is simple. America is enriched by a diversity of voices broadcasting their opinions over the airwaves. A diverse pool of broadcasters and programming is one of the best ways to ensure that an abundance of views are shared with the public. Digital television will provide numerous opportunities for entrepreneurial enterprises in station operation and programming. All Americans should reap the benefits of the digital revolution; the best way to ensure universal benefit is by promoting equal opportunities.

Next, I am glad that the Report recognizes that, as a first priority, Congress must secure long-term, stable, adequate funding for public broadcasting. Public broadcasters' record is unparalleled in public interest service. Although channels and choices will multiply in the digital age, most will be commercially supported, and any public services that commercial channels offer will necessarily be subordinate to their central need to return revenues to shareholders. Therefore, it is essential to the public interest that we support public broadcasting, whose sole mission is nonprofit public service. The Report acknowledges the vital nature of public broadcasting by urging Congress to create a trust fund to ensure permanent and adequate funding.

I am disheartened by the fact that the Report only presents public broadcasters as one option for operating the new educational channel. The Report should have rewarded public broadcasting for its long and accomplished public service history by recommending that public broadcasting stations be given the first opportunity to be entrusted with the special educational channel. Through giving local public television stations the first opportunity to operate each educational channel, the Report would have recognized that one of the prime benefits of digital technology is that it will revolutionize the educational process, particularly for those now underserved by information resources. Public broadcasters are dedicated and mandated to provide educational programming to all Americans. It simply makes sense that the Report recommend allowing public broadcasting to put its experience and expertise to use. Public broadcasters are already well advanced in their plans to deploy digital spectrum in the public interest, and stand ready to create and deliver abundant digital content. The educational channel would allow public broadcasting to truly fulfill its universal public service mandate. The Report should recommend that such a result be guaranteed.
Of course, I presume that any operation of the educational channel would be free from editorial control of Government entities. The role of the Department of Education and Federal Communications Commission must be explicitly defined so that the Government will not be involved in programming decisions, as this is not an appropriate role for it. The Report does not recommend that Government entities be removed from editorial decision making, and it should.

Finally, I would be remiss if I did not express my disappointment that the Report did not more fully address mandatory cable carriage of local broadcasters' digital signal (also known as "must-carry"). The Report does a disservice to digital signal must-carry obligations by merely endorsing must-carry as a concept, but shying away from recommending any sort of implementation scheme. At a minimum, the Report should have recommended that the FCC require that the digital signal(s) and all accompanying digital enhancements of nonprofit educational stations be carried by cable systems under any implementation scheme as soon as they begin digital broadcasts. More specifically, instead of "throwing its hands up" at an implementation schedule, the Advisory Committee should have urged the FCC and Congress to adopt regulations that require a cable operator to carry both the analog and digital signals (with enhancements) of public television stations and other operators of newly designated nonprofit educational channels such as the educational channel described herein, if different from public broadcasters.

Without must-carry obligations for the digital signals of public broadcasting stations, the public will be deprived of the opportunity to experience the expanded and enhanced public interest services made possible by this new technology, services that have been supported by tax dollars and direct contributions. Despite my feeling that the Advisory Committee should have gone farther in recognizing and strengthening the contributions of public broadcasting, I think the overall Report is something of which we, and all Americans, should be proud. It is the beginning of a blueprint for broadcasting's new millennium, an era that promises to be full of opportunities for public service and the entrepreneurial spirit.

Statement of Robert W. Decherd, Harold C. Crump, and William F. Duhamel, Ph.D.

This statement summarizes our response to the Report of the Advisory Committee with regard to the public interest obligations that should be applicable to over-the-air broadcasters as the nation's television system shifts from an analog to a digital transmission format. We applaud the Advisory Committee's conscientious efforts to achieve a consensus and agree with a number of the concepts set forth in the Report. We regret, however, that it appears that a majority of Advisory Committee members are not prepared to embrace a public interest model for the coming digital age which appropriately reflects (1) the tremendous commitments to localism and public service programming long demonstrated by the industry, and (2) the marketplace incentives which will ensure an ample supply of non-entertainment programming in the future.
Section II of the Advisory Committee Report espouses historical and legal notions from the history of television industry regulation that will have very limited currency in the digital age. We see no scarcity in electronic outlets for free expression now or in the future and thus take exception to this section.

Having worked diligently and participated faithfully in the work of the Advisory Committee, we are disappointed that we must disagree with many of the recommendations. We continue to believe everyone's purposes would be better served if the Advisory Committee had taken a more general approach such as the one set forth in our statement. The digital world is evolving at a stunning pace and no one can predict with certainty today how public interest obligations—or most other aspects of digital television—will play out. We believe quality journalism and public service will carry the day with viewers no matter what the technologies or delivery systems of the future might be.

Additional Public Interest Programming Expectations for Digital Broadcasters Who Choose to Multiplex

The Advisory Committee's report addresses "whether the public interest requires a different formula" for television broadcasters who decide to use their DTV allotments for multiple channels of commercial programming. The Report recommends that, after a 2 year moratorium for experimentation, Congress or the FCC should require the payment of fees or "inkind contributions" (e.g., dedication of one of the channels to public interest purposes, or provision of free time to political parties) by broadcasters who realize a substantial increase in revenue from multiplexing. With this fee or inkind arrangement in place, statutory or other public interest obligations would attach only to the primary channel.

We support the notion of a moratorium to allow broadcasters to explore the many possibilities offered by DTV but believe it is inappropriate at this point to contemplate the imposition of fees or the extraction of specific public interest concessions from broadcasters based only upon speculative assumptions about the possible use of DTV channels. Television broadcasters will have strong incentives to continue to provide news and other nonentertainment programming to meet the needs and interests of their audiences as the transition to DTV progresses. At this early stage in the DTV implementation process, however, it is impossible to determine precisely the manner in which the transition to digital broadcasting will unfold, or the economic impact of that transition on television broadcasters and the marketplace in which they compete. That transition will be achieved most rapidly and efficiently if broadcasters are free to experiment with HDTV, multiplexed SDTV, and other variations of digital transmission and to develop innovative programming and other services to take full advantage of the enormous potential of digital technology. The transition to DTV will be expensive and difficult for broadcasters. Congress and the FCC should proceed with caution and avoid the imposition of any additional burdensome regulatory requirements which may stifle experimentation and slow the implementation of digital technology.

In these circumstances, existing public interest obligations should be maintained but certainly should not be increased for broadcasters who determine to use their DTV allotments to
provide a single channel of high-definition television service. Those broadcasters will be providing a one-for-one replacement of existing NTSC service, which carries with it significant trusteeship obligations already tailored to that service. Similarly, because channels devoted to ancillary and supplementary services will be subject to fees under existing law, a broadcaster's decision to offer such services in addition to a single channel of DTV programming should not trigger any additional public interest obligations.

Television broadcasters who choose to transmit more than three channels of digital programming may reasonably be expected to devote some additional time to public interest programming. However, the imposition of fees or any sort of specific quantitative guidelines for additional public interest programming contributions are unnecessary and inappropriate. Accordingly, broadcasters choosing to multiplex their DTV offerings should be given the flexibility to determine the appropriate level and scheduling of such additional public interest programming and to decide whether that programming will be aired on one or more of their digital video channels. The community will be the judge of the sufficiency of these multiplexed program offerings. As the transition to DTV unfolds, broadcasters will learn from the reaction of the marketplace whether they have accurately gauged the needs and interests of their local audiences.

**Retention by Public Television Stations of a Second Channel in Each Market to Be Devoted Primarily to Educational Programming**

We strongly support the Advisory Committee's recommendation that, in each market, a second transition channel be retained permanently to be used for additional educational, instructional, and public interest programming by noncommercial TV stations. In this way, the availability of such programming can be expanded without displacing the programming currently available on PBS or commercial TV stations.

We also support the suggestion that the existing local public television station (or stations) be given the first opportunity to operate the additional educational DTV channel. We are opposed, however, to the Advisory Committee's suggestion that the FCC would have the power to approve or disapprove a plan for programming the station or for involving the local community in the station's operations; such additional regulatory oversight is unnecessary.

We also agree with the Advisory Committee's suggestion that the fees charged commercial broadcasters for ancillary and supplementary services can be used as one source of funding for the program services on these second channels. Further, the Corporation for Public Broadcasting (CPB) should continue to act as the umbrella organization for allocating funds to local noncommercial stations. Reliance on CPB to perform that function would also avoid the need for establishment of any new bureaucracy. Additionally, as the Advisory Committee suggests, Congress may wish to consider devoting a portion of the proceeds of the auctions of returned analog television channels to the support of additional noncommercial programming to serve local educational and informational needs.
We share the belief of other members of the Advisory Committee that the availability of a second public television channel would strengthen noncommercial broadcasting and provide new opportunities for public access to the airwaves, including outlets for independent program producers and local residents and community organizations. Additional spectrum dedicated to public use could also create a permanent pipeline for political candidates to communicate with the electorate.

Reliance on Voluntary Adherence by Television Broadcasters to Broadly Shared Public Interest Principles

As the Advisory Committee's Report recognizes, for many years, the great majority of broadcasters have voluntarily adhered to generally accepted, industry-wide principles in providing public interest programming to serve their local communities. We strongly believe that continued voluntary adherence to these salutary principles, updated as may be appropriate to reflect the intentions of television broadcasters as they enter the digital age, will serve the industry and the public well.

We are prepared to commit to the following public interest principles and objectives for the DTV era:

- Renewed and systematic efforts by station licensees to identify the concerns and interests of their local communities.
- A continuing commitment to provide public interest programming responsive to those concerns and interests.
- Provision of programming (including educational programming) specifically addressed and intended to be responsive to the needs and interests of children.
- Coverage of debates and other candidate forums.
- Voluntary provision by television stations of airtime for uninterrupted statements by candidates for public office, to encourage a meaningful dialogue with the electorate on the central issues of their campaigns.
- Airing of town meetings and similar open forums for discussion of local issues by area residents, officials, and community leaders.
- Continuing efforts (such as closed captioning) to utilize available technology to make the benefits of broadcast television more widely available to individuals with disabilities.

We do not believe, however, that it is appropriate for the Advisory Committee either to identify the industry group expected to develop a new code, or statement of principles or standards, or to provide models of what such standards might look like. First, the NAB and the majority of broadcasters have made clear that the implementation of a new code by the NAB is not feasible. Any suggestion that a new code is expected, that it should conform to some "model," or that, as some members suggest, the FCC might step in if the industry does not produce such a document, is inconsistent with the concept of truly voluntary self-regulation.
Mr. Crump disagrees with this language and supports a new voluntary code of conduct to replace the old NAB Code of 1952.

Minimum Public Interest Requirements

The Advisory Committee's Report suggests that "not all broadcasters will subscribe to voluntary guidelines" and that "a set of mandatory minimum public interest requirements for digital broadcasters" should be developed. Indeed, some Advisory Committee members would use the occasion of the DTV transition as an excuse to reinstate governmentally mandated programming standards, such as formal ascertainment procedures and quantitative guidelines, that were rescinded as unnecessary and ineffective.

For the reasons set forth above, we strongly oppose the imposition of such mandatory standards. The vast majority of American broadcasters have demonstrated their awareness of and responsiveness to the concerns and needs of their local communities. The marketplace, moreover, provides very substantial incentives for broadcasters to provide locally oriented news and other informational and public service programming. These incentives will only increase in the digital era, and broadcasters will need maximum flexibility to experiment and develop suitable programming and other digital services. The dawn of the digital age should not be accompanied by a return to government micromanagement of programming service.

Disclosure of Public Interest Activities by Broadcasters

To assist individual communities in assessing and understanding the public interest programming efforts of local TV stations, television broadcasters should be encouraged to disseminate more broadly information on their efforts to identify and address local concerns in their public interest programming offerings.

We do not believe that it is necessary or appropriate for the FCC to impose specific additional recordkeeping or reporting requirements. Rather, television station owners navigating the difficult and expensive transition to DTV operations will have every incentive to take appropriate steps to ensure that they identify and satisfy the needs, interests, and tastes of their audiences.

Voluntary Provision of Airtime for Coverage of Federal Election Campaigns

We are cognizant of the widespread concern with respect to the increasingly important role of television spot advertising in political campaigns and of the accompanying issues such as negative campaigning and fundraising abuse. Therefore, broadcasters should be strongly encouraged to provide airtime to candidates on a voluntary basis for more meaningful discussion of campaign issues and proposals. A number of TV station licensees already do so, and others have expressed the intention voluntarily to provide such airtime in upcoming election periods.
Broadcasters also should be encouraged to consider, on a voluntary basis, a broad range of programming and other options to help elevate political discourse. This process should not be mandated by the Federal Government; it can and should be a voluntary standard agreed to and promoted by the industry and its leading members. Thus, the Advisory Committee should not attempt to articulate or endorse any particular plan for the use of airtime for political messages. Further, as the Advisory Committee Report notes, “television is only one part of a campaign system filled with serious problems.” Broadcasters can and should be expected to do their fair share to contribute to solutions to those problems.

Disaster Warnings in the Digital Age

As the Advisory Committee Report recognizes, broadcasters have always taken seriously their fundamental public interest responsibility to warn viewers about impending natural disasters and to keep them informed about disaster-related events. We join in the Advisory Committee’s exhortation to broadcasters to work with emergency communications specialists and equipment manufacturers to utilize digital technology to transmit emergency-warning and related information in a manner that will be as effective as possible, with minimal intrusion on bandwidth or undue burdens on broadcasters. We also agree that regulatory authorities should coordinate with manufacturers of DTV receivers to ensure that new digital TV sets and converters are fully capable of handling such emergency transmissions.

Disability Access to Digital Programming

We agree with the Advisory Committee recommendation that broadcasters should be encouraged to explore vigorously ways to provide greater access to the disabled, including expanded closed-captioning and video description where feasible, as well as creative uses of data streaming, in ways that will not create an undue burden on broadcasters. Again, as the Advisory Committee Report suggests, the FCC and/or other regulatory authorities should work with set manufacturers to ensure compatibility and maximum utilization of available technology. Broadcasters should not be subject to specific additional requirements, beyond those already enumerated for the television industry in general, by virtue of the initiation of DTV operations.

A New Approach to Public Interest Obligations

In the final section of its Report, the Advisory Committee states that “[a]pplying existing public interest obligations to [the] variegated universe [of DTV offerings] will not be easy, and will certainly not entail a simple one-for-one exchange.” We strongly agree that “flexibility to fit the different patterns that will develop and that will change over time will be increasingly important.”

We do not believe that the “pay-or-play” model identified in the Advisory Committee Report offers an appropriate model for future public interest regulation. In essence, it would appear to require broadcasters either to meet governmentally mandated standards or to pay an
alternative tax for use of the airwaves. We believe that this sort of approach would be inconsistent both with the tradition of public trusteeship on which broadcasting has been built and on the history of reliance, to the maximum extent possible, on the good-faith discretion of licensees to meet the needs of their audiences.

Conclusion
For the reasons set forth above, we recommend that Congress, the FCC, and the television industry proceed cautiously at this stage in the transition to digital, avoiding the imposition of any additional and onerous regulatory burdens that may stifle the rapid introduction of DTV service and the expanded programming services it will make possible. As the country moves forward with the introduction of digital television and we gain a clearer understanding of the future shape of the industry, it may then be appropriate to consider whether the adoption of any additional measures are warranted. At that point, we would expect to have a much more meaningful basis for evaluating any further steps.

Statement of Barry Diller

Since its invention, local broadcast television has performed the powerfully important service of delivering public interest programming, at no charge, to all Americans. If we mangle the transition to digital broadcasting, we will lose that unique public service.

I support the Advisory Committee's recommendations because, on the whole, they will help rather than hinder the preservation of free local broadcast television and its benefits as broadcasting enters the digital age.

One proposal will accomplish the opposite: the idea of taxing the provision of multiple free television signals. I disagree with it.

* * *

Free local broadcast television is the only video programming service that has provided everyone in the country, at no cost, with national and local news and information; public affairs and other programming serving the local community; public service announcements; programming for diverse and underserved audiences, such as shows for minority audiences and educational programs for children; and other public interest programming. Nothing on the horizon will change that fact.

It follows, in my view, that recommendations concerning the public interest obligations of digital broadcasters should flow from the following two principles.

1. Broadcasters have unique public interest obligations because broadcasting is our only free and ubiquitous video programming service.
2. Public interest obligations on broadcasters are meaningless unless broadcasting remains a free and ubiquitous video programming service.

The Advisory Committee's recommendation that broadcasters have minimum public interest requirements stems from the first principle. As trustees of the public airwaves, broadcasters must serve the public interest. In an ideal world, voluntary guidelines would suffice. In the real world of commerce and competition, where economic incentives run counter to the provision of public interest programming, it is appropriate for the Government to insist on enforceable minimum public interest standards.

Some disagree with the notion that the Government should adopt clear, minimum standards for broadcasters. Especially in an increasingly competitive television world, that position, if accepted, would inevitably diminish the amount of public interest programming broadcasting provides and seriously weaken the public trustee concept, which has for so long provided enormous benefits to the country. For similar reasons, I disagree with the notion that broadcasters should be able to shunt their public interest obligations on to others—the notion of "pay or "play," which the Report discusses but rightly declines to endorse.

Minimum public interest standards should be reasonable, flexible, and limited to areas appropriately subject to Government enforcement. Other areas should be handled through a voluntary industry code of conduct, and I agree with the Report's recommendation that the television industry adopt such a code.

Because television is available so widely, and because it is the country's main source of news and information, it is not surprising that television has become the main way that candidates reach voters. The problem, of course, is that it is an expensive way for candidates to reach voters. There is no question that this country's scheme for financing elections is a dirty mess and that the high cost of advertising is part of—though certainly not all of—the problem.

Broadcasters should participate in the solution, and I support the proposal that broadcasters issue a challenge to Congress on campaign finance reform. If Congress adopts real and comprehensive campaign finance reform, broadcasters should, can and, I expect, will ensure that candidates have enough free television time to reach voters.

Minimum standards, free time and other public interest efforts of broadcasters are ultimately meaningless if broadcasting does not continue to reach everyone in the country—the second principle I mentioned above. Broadcast channels that are not universally received cannot remain a free service; the advertising base would be too small to support a competitive product. The reality is that most viewers receive broadcast television through wires controlled by the local cable operator, and as Congress and the Supreme Court have found, it is appropriate to ensure that all broadcasters can reach everyone in their audience. I support the Advisory Committee on must-carry for digital broadcasters.

There is another regulatory issue that must be addressed if broadcasters are to continue to have the wherewithal to create and distribute public interest programming. Many of the Federal Communication Commission's outdated limits on television ownership no longer serve
their purpose. In fact, in the current highly competitive television landscape those rules hinder their purposes of competition, diversity, and localism. FCC rules wrongly prevent broadcasters from entering arrangements that would make it economically sensible to provide significant amounts of local programming, news, and other public interest programming. Although the topic of ownership goes beyond what the Advisory Committee was asked to address, we should not kid ourselves: current ownership rules seriously threaten broadcasters’ ability to serve their local communities.

Finally, I wish to state my opposition to the Report’s treatment of multiplexing by digital broadcasters. The Report suggests that a fee be imposed on broadcasters that provide multiple streams of programming. If broadcasters charge a subscription for such programming there are separate rules requiring fees on broadcasters, as the Report acknowledges. Thus, this proposal is solely about the provision by broadcasters of multiple free signals. The notion of taxing or otherwise penalizing free broadcasting defies logic. For decades, it has been Government policy to encourage the provision of free over-the-air television. There is nothing about digital technology that warrants the replacement of that policy with one that will discourage free television.

Many of the Report’s other proposals can and should be refined as we learn more about the technology and economics of digital broadcasting. But in the pre-dawn of the digital television era, it was appropriate to bring this group together to consider the public interest obligations of digital broadcasters, and it is right to reaffirm the status of the broadcast industry as trustee of the public airwaves with real obligations to serve its audience.

Statement of James F. Goodmon Supporting Minimum Standards for Digital Television Broadcasters

Beginning with the first Advisory Committee meeting, when I handed out a copy of the original NAB Code to every member, I emphasized my view that it is very important to establish minimum public interest standards and a voluntary code of conduct for digital television broadcasters. Throughout the proceedings, I have consistently promoted that view. I believe that it is very important to reaffirm the principles of localism and public service as we enter the digital broadcasting era.

The consensus Report of the Advisory Committee takes a moderate position regarding digital broadcast “regulation.” It goes something like this:

1. In lieu of paying money for a digital broadcast license, the licensee will agree (in effect, enter into a contract) to “serve the public interest” through the operation of its station.

2. What does “serve the public interest” mean? Good question—the Advisory Committee views this as a three-step process:
(a) All stations should be required to meet certain minimum standards of public interest performance. These minimum standards should be broad and flexible.

(b) A voluntary code of conduct should be put in place to encourage higher than minimum standards for the broadcast industry. (The NAB did a good job with this in the past.)

(c) All stations should be required to report quarterly on their public interest activities.

The devil, of course, is in the details, and the Advisory Committee encourages the FCC to work with broadcasters and public interest groups to hammer out the specifics. The Advisory Committee Report, with its attachments, includes some specific suggestions regarding minimum standards, the voluntary code, and quarterly reporting.

To my comments I am attaching the “Minimum Public Interest Requirements for Digital Television Stations” submitted by the Working Group on Minimum Public Interest Standards. I chaired this Working Group. I need to point out that this is not a consensus proposal from the Working Group, although I do believe that a majority of the Advisory Committee supports its contents.

A suggested voluntary code is included in the full Advisory Committee report. (See Appendix B.) A suggested quarterly reporting format is included in the Advisory Committee Report. (See Appendix A.)

Our consensus Report necessarily avoids two widely divergent positions regarding broadcast “regulation.” It is interesting that both poles of the argument use the “free market” principle (profit motive) as the basis for their positions. One states that there should be no regulation because the “free market” principle as the basis for their positions. One states that there should be no regulation because the “free market” will (by definition) cause the stations to operate in the public interest. That is, the only way to make a profit is to operate in the public interest. Their argument is that regulation in any form is costly, stifles creativity, is onerous, outdated, and unnecessary. This leads, quickly, to the rejoinder that if broadcasters will not commit, in a meaningful and quantifiable way, to serve the public interest in return for the free use of public spectrum then their licenses should be auctioned in the “free market” to the highest bidder. Again, it is my feeling that the Advisory Committee Report takes a sensible middle road between the two extremes.

As a broadcaster, I do not view these minimum standards as regulation. In return for a license to use a public asset for private financial gain, a broadcaster agrees to serve the public interest. The broadcast company is fulfilling a contract between itself and the public body that owns the asset. As with all contracts, both parties to the agreement need to know exactly the responsibilities that they have to each other. With minimum standards spelled out, there is no question.

As a broadcaster I would like to know what is expected of me in serving the public interest. Required minimum standards and a voluntary code provide the benefit of certainty to broadcasters. I like to know what the rules are.
MINIMUM PUBLIC INTEREST REQUIREMENTS FOR
DIGITAL TELEVISION STATIONS

Submitted by
Working Group on Minimum Public Interest Standards

Mandated Minimum Requirements

A. Community Outreach. Stations should be required to develop a method for determining or
"ascertaining" a community's needs and interests. This process of reaching out and involving
the community should serve as the station's road map for addressing those needs through news,
public affairs programming, and public service announcements. Further public input should be
invited on a regular basis through regular postal and electronic mail services. The call for
requests for public input should be closed captioned. On a quarterly basis, the stations should
report to the Federal Communications Commission and the public on how ascertained needs
determined management decisions on developing public interest programming.

B. Accountability. Whether or not there are required minimums, stations should report quarterly
to the FCC and the public on their public interest efforts. This report would include quantita-
tive and qualitative information about PSAs, public affairs programming, news programs,
children's programs, ascertainment, etc. These quarterly reports should be broadcast by the
station and also provided through an on-line internet service. In addition, we believe the NAB
Public Interest Report provided valuable information to this Committee and others and we
would encourage the NAB to offer this report on an annual basis. Standardized Quarterly
Reports from the stations would aid the NAB in this effort. (Another subcommittee has been
assigned the task of preparing a proposed quarterly checklist for stations to place in their public
files.)

The station's public file documents would be made available by mail or posted through an on-
line service to the community. “Electronic filing” opportunities for stations should be explored
by the FCC.

C. Public Service Announcements. A minimum number of public service announcements
should be required with an emphasis placed on locally-produced PSAs addressing the
community's local needs. A certain percentage of those PSAs should be mandated to run in
prime time and other day parts. (See Attachment for a suggested range of required numbers
for PSAs and for a suggested phase-in period.)

D. Public Affairs Programming. Each broadcast station also should be required to devote a
minimum amount of time to public affairs programming, again with an emphasis on local
issues and needs. Highly visible time periods should also be spelled out for these important
programs. Segments within a regularly scheduled newscast should not be counted toward the
minimum time requirements for public affairs programming. (See Attachment for suggested
minimum requirements and a suggested phase-in period.)

E. Free Political Programming. Programming time should be set aside for key political races. One
of two methods could be selected for this requirement:

(1) Broadcasters should provide at least five minutes of free political discourse each evening for the
thirty nights prior to a primary or general election of candidate-centered races. Those programs
should air between 6 p.m. and 11:30 p.m. In no case, would the minimum length of these
political blocks be less than two minutes.
(2) Broadcasters would offer at least four hours of free political program time in the 60 days preceding primaries or general elections. One-half of this programming should be broadcast between 6 p.m. and 11:30 p.m. (For example, stations could program one-half hour per week for eight weeks prior to the election.) Station management could make the decision on how to block the time.

In either selection made above, news interviews of candidates would not count toward the total requirements of time.

Large political races often pose problems for broadcasters because of the sheer number of offices and candidates available. Local broadcasters should be encouraged to work together to provide outlets for as many candidates as possible. As an example, stations could work together to divide the offices and candidates among themselves.

F. Closed Captioning. A broadcast station should be required to provide closed captioning of all PSAs, public affairs programming, and political programming. A station should provide one fourth of such captioning by the close of the first year of its digital transmission, and increase the amount of such captioning by one fourth over each subsequent year. Because most stations will begin digital transmissions after 2002, this schedule will be consistent with the captioning schedule imposed by recent FCC rules that require most new programming to be captioned by 2006.

G. Lowest Unit Charge. The current “lowest unit charge” system used by stations for political advertising is very complex and difficult for stations and candidates to administer. Further, because of a change in industry sales policies to more of an “auction” selling system, the current “lowest unit charge” plan is confusing. For purposes of simplification and to provide a preferred rate to candidates, the current “lowest unit charge” used by stations shall be replaced by a “bonus rate” plan whereby one bonus political spot would be provided for every three spots paid for by the candidate. These “bonus rates” would apply only in commercials where the candidate appears and voices 75 percent of the total commercial spot.

H. Issue Advertising. Recent years have seen a sharp expansion of television advertising close to elections that qualifies as “issue advocacy,” falling outside the legal definition of political advertising but is obviously purchased by groups with names like “Citizens for Good Government,” that disguise from viewers the sponsor or founder of the message. To preserve the principle of disclosure to the public, stations should require purchasers of issue advertising, who use the name or likeness of a candidate for office within the viewing area of the station, to provide full information about the sponsor and officers of organizations funding the advertising within sixty days of an election, which the station should in turn make public before the election.

I. Multi-casting. Digital television offers opportunities for broadcasters to carry programming on multiple channels. And while the committee has discussed many alternatives for providing public interest requirements for these additional channel opportunities, it is the subcommittee’s recommendation that a station's primary channel must meet all the public interest minimum requirements outlined in this document. The larger committee should have some latitude in developing requirements for these additional channels but in no case should a broadcaster be allowed an opportunity to pay a fee rather than meet these requirements on any channel unless that channel is a designated “ancillary” channel under FCC rules and a government imposed fee is charged.
J. **Diversity in Employment.** The committee recognizes that Equal Opportunity Rules implemented by the FCC resulted in significant improvements in diversity of employment in the broadcast industry. Realizing the courts have, at this time, invalidated those rules, the committee encourages the FCC to look for other opportunities to establish employment standards that meet the legal criteria and ensure non-discrimination in employment practices. If this is not possible, individual broadcasters should be encouraged to develop non-discriminatory policies for employment under a voluntary code.

[Note to reader: The report of the Working Group also included sections on the importance of must-carry and an industry-adopted voluntary code of conduct.]

**ATTACHMENT**

These are Proposed Ranges and Phase-In Periods for PSAs and Public Affairs Programming Requirements.

**Public Service Announcements.**

1. **Proposed range.** The suggested range for the number of public service announcements required is from 110 to 150 per week for each station or channel. The suggested breakout by time period follows:

<table>
<thead>
<tr>
<th>Time Period</th>
<th>Proposed Range</th>
</tr>
</thead>
<tbody>
<tr>
<td>6:00 a.m. - 4:00 p.m.</td>
<td>40 - 60</td>
</tr>
<tr>
<td>4:00 p.m. - 11:30 p.m.</td>
<td>30 - 40</td>
</tr>
<tr>
<td>11:30 p.m. - 6:00 a.m.</td>
<td>40 - 50</td>
</tr>
</tbody>
</table>

2. **Local Emphasis.** At least one half of the spots should be locally-produced and directed toward local issues.

3. **Phase In Period.** PSA requirements would be phased in with approximately one-third of the PSAs required in the first year of digital transmission, one third in the second year, and all numerical requirements met in the third year.

**Public Affairs Programming.** While we suggest that broadcasters be required to carry at least two hours of local programming each week, a suggested phase-in period might allow the following:

- **Year one**  
  Weekly, one-half hour, locally-produced public affairs programming

- **Year two**  
  Weekly, one hour or two half hours of programming

- **Year three**  
  Weekly, two hours of public affairs programming

The first one-half hour of programming should be carried between the hours of six p.m. and midnight.

In year two and thereafter, one-half of all public affairs programming should be (a) broadcast between six p.m. and midnight and (b) locally produced and aimed at local community needs and interests.

**Free Political Programming.** Political programming should not be phased in. Minimum requirements should be met following implementation.