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65 FR 4211-01
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FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 99-360, FCC 99-390]

Public Interest Obligations of Television Broadcast Licensees

Wednesday, January 26, 2000

*4211 AGENCY: Federal Communications Commission.

ACTION: Notice of Proposed Rulemaking.

SUMMARY: This document solicits comments on how broadcasters can best serve the public interest as they transition to digital transmission technology. The document is guided by several proposals the Commission has received and other recommendations that have been made in recent years.

DATES: Comments are due on or before March 27, 2000; reply comments are due on or before April 25, 2000.

ADDRESSES: Federal Communications Commission, 445 12th Street, Room TW-A306, SW, Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: Eric Bash, Policy and Rules Division, Mass Media Bureau (202) 418-2130, TTY (202) 418-1169.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Notice of Inquiry ("NOI"), FCC 99-390, adopted December 15, 1999; released December 20, 1999. The full text of the Commission's NOI is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room TW-A306), 445 12 St. SW, Washington, DC. The complete text of this NOI may also be purchased from the Commission's copy contractor, International Transcription Services (202) 857-3800, 1231 20th St., NW, Washington, DC 20036.

Synopsis of Notice of Inquiry

I. Introduction

1. Television is the primary source of news and information to Americans, and provides hours of entertainment every week. In particular, children spend far more time watching television that they spend with any other type of media. Those who broadcast television programming thus have a significant impact on society. Given the impact of their programming and their use of the public airwaves, broadcasters have a special role in serving the public. For over

65 FR 4211-01

(Cite as: 65 FR 4211, *4211)

seventy years, broadcasters have been required by statute to serve the "public interest, convenience, and necessity." Congress has charged the Federal Communications Commission with the responsibility of implementing and enforcing this public interest requirement. Indeed, this is the "touchstone" of the Commission's statutory duty in licensing the public airwaves. Under the Communications Act of 1934, the Commission may issue, renew, or approve the transfer of a broadcast license only upon first finding that doing so will serve the public interest.

2. There has been considerable debate over the years about how the Commission should carry out this statutory mandate. Currently, broadcasters must comply with a number of affirmative public interest programming and service obligations. For example, broadcast licensees must provide coverage of issues facing their communities and place lists of programming used in providing significant treatment of such issues in their public inspection files. Broadcasters must also comply with statutory political broadcasting requirements regarding equal opportunities, charges for political advertising, and reasonable access for federal candidates. In addition, television broadcasters must provide children's educational and informational programming under the Children's Television Act of 1990. In terms of programming obligations, broadcasters are also prohibited from airing programming that is obscene, and restricted from airing programming that is "indecent" during certain times of the day. Similarly, broadcasters also have obligations regarding closed captioning, equal employment opportunity, sponsorship identification, and advertisements during children's programming.

3. The discussion of television broadcasters' **public interest obligations** has been renewed by their transition from analog to **digital television** (DTV) technology. This is due in part to the new opportunities DTV provides. DTV holds the promise of reinventing free, over-the-air television by offering broadcasters new and valuable business opportunities and providing consumers new and valuable services. DTV broadcasters will have the technical capability and regulatory flexibility to air high definition TV (HDTV) programming with state-of-the-art picture clarity; to "multicast" by simultaneously providing multiple channels of standard digital programming and/or HDTV programming; and to "datacast" by providing data such as stock quotes, or interactive TV via the DTV bitstream.

4. In establishing the statutory framework for the transition to DTV, Congress directed the Commission to grant any new DTV licenses to all existing television broadcasters. Congress stated in section 336 of the Communications Act that "[n]othing in this section shall be construed as relieving a television broadcasting station from its obligation to serve the public interest, convenience, and necessity." Likewise, in implementing section 336 in the 5th Report and Order in the DTV proceeding (62 FR 26966, May 16, 1997), the Commission reaffirmed that digital TV broadcasters remain public trustees and must serve the public interest, and that existing **public interest obligations** continue to apply to all broadcast licensees.

5. The Commission also indicated, however, that "[b]roadcasters and the public are also on notice that the Commission may adopt new public interest rules for **digital television**." Commenters in the DTV proceeding adopted different views on this issue, with some arguing that broadcasters' **public interest obligations** in the digital world "should be clearly defined and commensurate with the new

65 FR 4211-01

(Cite as: 65 FR 4211, *4211)

opportunities provided by the digital channels broadcasters are receiving," while others contended that "current public interest rules need not change simply because broadcasters will be using digital technology to provide the same broadcast service to the public." The Commission declined to resolve the *4212 issue in the DTV proceeding, instead choosing to issue a notice to consider all views at a later point.

6. We undertake that task with this NOI. In doing so, we are guided by several proposals and recommendations made in recent years. Among the most significant of these are the recommendations of the President's Advisory Committee on the **Public Interest Obligations of Digital Television** Broadcasters ("Advisory Committee"). The Advisory Committee was comprised of a broad cross-section of interests, consisting of twenty-two members chosen by the President from "the commercial and noncommercial broadcasting industry, computer industries, producers, academic institutions, public interest organizations, and the advertising community." On December 18, 1998, the Advisory Committee submitted a report, which contains ten separate recommendations on the **public interest obligations digital television** broadcasters should assume. On October 20, 1999, Vice President Gore submitted a letter to Chairman Kennard asking the Commission to focus on several of the Advisory Committee's recommendations in particular.

7. In addition to the Advisory Committee's recommendations, on June 3, 1999, People for Better TV filed a petition for rulemaking and a petition for notice of inquiry. People for Better TV also includes a number of diverse groups. People for Better TV argues that the Telecommunications Act of 1996 requires the Commission to determine the **public interest obligations** of DTV broadcasters, that the advent of DTV requires the Commission to consider **public interest obligations** anew, and to clarify whether existing guidelines apply, and that both broadcasters and the public need a basic set of public interest standards. The group contends that the Commission should initiate a rulemaking proceeding to determine the **public interest obligations** of digital broadcasters. People for Better TV also urged the Commission to issue a notice of inquiry and hold hearings on the **public interest obligations of digital television** licensees, focusing on a variety of categories. On November 16, 1999 People for Better TV submitted a letter to Chairman Kennard reiterating its request that the Commission initiate a proceeding to determine the **public interest obligations** of DTV broadcasters.

8. We are also guided by the thoughts and work of other advocates regarding broadcasters' **public interest obligations**, including those proposals that are not as closely tied to the new opportunities inherent in digital technology. The conversion from analog to digital is a long transition, and both analog and digital broadcasters must operate consistently in the public interest during the transition. At the same time, we acknowledge that many broadcasters have served the public interest in numerous ways over the years. According to a report of the National Association of Broadcasters published in 1998, the nation's broadcasters provided \$6.85 billion in community service in 1996. Therefore, by this NOI, we are asking broadcasters and members of the public to present their views or ideas on how best to implement the public interest standard during the transition. As the courts have acknowledged, and the transition to DTV reinforces, the public interest standard is "a supple instrument" designed to be flexible enough to accommodate the "dynamic aspects of radio transmission," and

65 FR 4211-01

(Cite as: 65 FR 4211, *4212)

we believe that it is an appropriate time to create a forum for public debate.

II. Areas of Inquiry and Request for Comments

9. At this the advent of the digital age, we seek comment on how broadcasters can best serve the public interest during and after the transition to digital technology. We seek comment on challenges unique to the digital era, how broadcasters can meet their **public interest obligations** on both their analog and digital channels during the transition period, and on various proposals and recommendations that have been made on how broadcasters could better serve their communities of license. We welcome other proposals, and request parties to articulate legal bases for their proposals, and explain how they would serve the public interest.

A. Challenges Unique to the Digital Era

10. More than 100 DTV stations are currently on the air. These broadcasters, as well as all television licensees upon the conversion to DTV, have the flexibility either to "multicast," to provide HDTV, or to "multiplex" DTV programming and "ancillary and supplementary services" at the same time. Both the Act and the Commission's implementing actions make it clear that DTV broadcasters must continue to serve the public interest. We seek comment on how to define these obligations. We are especially interested in specific proposals addressing whether and how existing **public interest obligations** should translate to the digital medium.

11. In implementing section 336, the Commission required that broadcasters air "free digital video programming service the resolution of which is comparable to or better than that of today's services, and aired during the same time period that their analog channel is broadcasting." In doing so, the Commission stated that "broadcast licensees and the public are on notice that existing public interest requirements continue to apply to all broadcast licensees." It is thus clear that DTV broadcasters must air programming responsive to their communities of license, comply with the statutory requirements concerning political advertising and candidate access, and provide children's educational and informational programming, among other things. But as People for Better TV ask, how do these obligations apply to a DTV broadcaster that chooses to multicast? Do a licensee's **public interest obligations** attach to the DTV channel as a whole, such that a licensee has discretion to fulfill them on one of its program streams, or to air some of its public interest programming on more than one of its program streams? Should, instead, the obligations attach to each program stream offered by the licensee, such that, for example, a licensee would need to air children's programming on each of its DTV program streams? The Advisory Committee Report contemplates that, under certain circumstances, a digital broadcaster should not have nonstatutory **public interest obligations** imposed on channels other than its "primary" channel. A majority of the members of the Advisory Committee believe that the FCC should prohibit broadcasters from segregating candidate-centered programming to separate program streams, because they believe that would violate candidates' reasonable access and equal opportunities. We seek comment on these approaches. In addition, how should we take into account the fact that DTV broadcasters can choose either to multicast

65 FR 4211-01

(Cite as: 65 FR 4211, *4212)

multiple standard definition DTV program streams or broadcast one or two HDTV program streams during different parts of the day? In addressing these issues, commenters should discuss the requirements of section 336(d) of the Act, which states that a "television licensee shall establish that all of its program services on the existing or advanced spectrum are in the public interest."

12. People for Better TV propose several other ways that digital broadcasters might better serve the nation's children, such as setting aside a minimum number of hours each week to provide educational programs or *4213 services, which might include data transmission for schools. In addition, PBTv suggests that the increased information capability of digital technology could improve the current voluntary ratings system. We seek comment on these ideas. In addition, should the ratings of programs promoted by broadcasters be consistent with the rating of the program during which the promotions run? We also ask commenters to address how the policies set forth in the Children's Television Policy Statement should be applied in the digital environment.

13. By definition, ancillary and supplementary services, such as datacasting or paging, are services other than free, over-the-air services. Do a licensee's **public interest obligations** apply to its ancillary and supplementary services? In addressing these issues, commenters should discuss the relevance of several sections of section 336. People for Better TV contends that "the public interest standard attends to all DTV uses of the spectrum," and points out that section 336(a)(2) states that the Commission "shall adopt regulations that allow the holders of [DTV] licenses to offer such ancillary and supplementary services on designated frequencies as may be consistent with the public interest, convenience, and necessity." We note that section 336(e) requires the Commission to collect fees from DTV broadcasters that offer ancillary and supplementary services, which fees must "recover for the public an amount that, to the extent feasible, equals but does not exceed (over the term of the license) the amount that would have been recovered had such services been licensed pursuant to the provision of section 309(j) of this Act and the Commission's regulations thereunder." In addition, section 336(b)(3) simply requires the Commission to "apply to any other ancillary and supplementary service such of the Commission's regulations as are applicable to the offering of analogous services by any other person." The Advisory Committee Report recommends that "[b]roadcasters that choose to implement datacasting should transmit information on behalf of local schools, libraries, community-based organizations, governmental bodies, and public safety institutions." The Advisory Committee Report suggests that "[t]his activity should count toward fulfillment of a digital broadcaster's **public interest obligations**," without indicating which regulations are applicable to ancillary and supplementary services. We seek comment on this proposal. How would datacasting count toward the DTV broadcasters' **public interest obligations**? We also seek comment more generally on whether the **public interest obligations** should apply to ancillary and supplementary services, and if so, how.

B. Responding to the Community

14. One of a broadcaster's fundamental **public interest obligations** is to air programming responsive to the needs and interests of its community of license. Another of its most basic obligations in responding to the public's informational needs is to air emergency information. Technological advances,

65 FR 4211-01

(Cite as: 65 FR 4211, *4213)

including digital technology, may allow broadcasters to fulfill these obligations better. In addition, broadcasters might make information about their programming more accessible, and therefore more responsive, to their communities of license through posting such information on websites on the Internet. As broadcasters move forward with their transition to digital technology, we seek to find ways to help them serve their communities better and more fully.

1. Disclosure Obligations

15. People for Better TV states that DTV broadcasters should "disclose their public interest programming and activities on a quarterly basis, matched against ascertained community needs," gathered by reaching out to "ordinary citizens and local leaders" and sought through "postal and electronic mail services as well as broadcast announcements." The Advisory Committee Report recommends that DTV broadcasters "should be required to make enhanced disclosures of their public interest programming and activities on a quarterly basis, using standardized check-off forms that reduce administrative burdens and can be easily understood by the public." The Advisory Committee Report explains that effective self-regulation requires broadcasters to make available to the public adequate information about what they are doing. The Committee notes that the Commission already requires all TV broadcasters to place in their public files separate quarterly reports on their non-entertainment programming responsive to community needs and on their children's programming, and recommends that the Commission require broadcasters to augment these reports. The enhanced disclosures "should include but not be limited to contributions to political discourse, public service announcements, children's and educational programming, local programming, programming that meets the needs of underserved communities, and community-specific activities." The Committee also recommends that digital TV broadcasters take steps to distribute public interest information more widely, through newspapers and websites. We seek comment on these recommendations.

16. Our rules currently require commercial TV broadcasters to include in their public file, among other things, citizen agreements, records concerning broadcasts by candidates for public office, annual employment reports, letters and e-mail from the public, issues/programming lists, records concerning children's programming commercial limits, and children's television programming reports. Should broadcasters provide the additional types of public service information proposed by the Advisory Committee Report and People for Better TV? Should they provide information in addition to, or in lieu of, that proposed by the Advisory Committee and People for Better TV? Should the public file contain information on what programming has closed captioning and video description? We seek comment on the extent to which the Advisory Committee's and People for Better TV's proposals parallel the Commission's previous ascertainment requirements, which the Commission repealed in the 1980s, and we ask parties to address whether the Commission's reasons for eliminating those requirements apply to our consideration of these proposals. These ascertainment guidelines set forth specific standards for broadcasters on consulting with community leaders, identifying and responding to community needs and problems through programming, and maintaining and making available various records on their ascertainment procedures.

65 FR 4211-01
(Cite as: 65 FR 4211, *4213)

17. We currently allow licensees to maintain their public inspection file in computer databases, and encourage licensees that elect this option to post their public file on any websites they maintain. We seek comment on how many broadcasters provide their public file in this format, and the costs and benefits of doing so. In particular, we seek comment on how broadcasters could use the Internet to ensure that they are responsive to the needs of the public. We seek comment on whether broadcasters should be required to make their public files available on the Internet, and whether those broadcasters that maintain a station website on the Internet could or should use the Internet to interact directly with the public, perhaps by establishing forums in *4214 which the public could post comments and engage in an ongoing dialogue about the broadcaster's programming. How could these websites and forums be made accessible to persons with disabilities? In addition, we seek comment on whether it would promote responsiveness to the community to require the disclosure of certain information (e.g., the individual ultimately responsible for a program's airing or content) that would enable public input more easily and meaningfully.

2. Disaster Warnings

18. The Advisory Committee Report recommends that "[b]roadcasters should work with appropriate emergency communications specialists and manufacturers to determine the most effective means to transmit disaster warning information. The means chosen should be minimally intrusive on bandwidth and not result in undue additional burdens or costs on broadcasters. Appropriate regulatory authorities should also work with manufacturers of **digital television** sets to make sure that they are modified to handle these kinds of transmissions." The Advisory Committee Report explains that digital technology will provide innovative and new ways to transmit warnings, such as pinpointing specific households or neighborhoods at risk, and suggests that DTV broadcasters take advantage of these technological advances. The Advisory Committee Report also states that most of these innovations will require only minimal use of the 6 MHz bandwidth allocated to digital broadcasters.

19. We seek comment on the Advisory Committee Report's recommendation. One of broadcasters' fundamental **public interest obligations** is to warn viewers about impending disasters and keep them informed about related events. What unique capabilities does digital technology give broadcasters to deliver disaster-related information? What role should the Commission play to encourage broadcasters to deploy such technology to deliver enhanced disaster information? How can we facilitate the realization of the Advisory Committee's goals? We note that the Commission recently adopted its "Emergency Alert System" requirements, set forth in part 11 of the Commission's rules. Should the Commission adopt any different requirements for DTV broadcasters?

3. Minimum **Public Interest Obligations**

20. The Advisory Committee Report recommends that "[t]he FCC should adopt a set of mandatory minimum public interest requirements for digital broadcasters * * * that would not impose an undue burden on digital broadcast stations, * * * should apply to areas generally accepted as important universal responsibilities for broadcasters," and should be phased in over several years.

65 FR 4211-01

(Cite as: 65 FR 4211, *4214)

21. We seek comment on the Advisory Committee Report's recommendations regarding minimum public interest requirements. Many members of the Advisory Committee were concerned that not all television broadcasters would adopt voluntary measures, while other members strongly opposed Commission-imposed minimum public interest requirements as unnecessary, preferring to give television broadcasters maximum flexibility and discretion in meeting their **public interest obligations**. Other parties have argued in our DTV proceeding that the Commission should adopt more specific public interest programming requirements given the new opportunities broadcasters will have in converting to DTV. They also express the concern that television broadcasters are not airing a sufficient amount of public interest programming, including local public affairs programming.

22. We invite comment on this debate. Should the Commission establish more specific minimum requirements or guidelines regarding television broadcasters' **public interest obligations**? Would this make the license renewal process more certain and meaningful by spelling out the public interest standard in more detail? How would such minimum requirements be defined? What additional costs, if any, would those requirements impose? Are there sufficient marketplace incentives to ensure the provision of programming responsive to community needs, obviating the need for additional requirements?

C. Enhancing Access to the Media

23. One of the Commission's long-standing goals in the area of broadcast regulation is to enhance the access to the media by all people, including people of all races, ethnicities, and gender, and, most recently, disabled persons. Congress emphasized this goal when it amended section 1 of the Communications Act in 1996 to refine this agency's mission to make available "to all people of the United States, without discrimination on the basis of race, color, religion, national origin, or sex, a rapid, efficient, Nation-wide, and world-wide wire and radio communication service * * * ." It further highlighted this goal when it added provisions to the Act concerning people with disabilities, such as section 713 relating to closed captioning and video description. Given the efficiencies of digital technology, DTV broadcasters will be able to "multicast" and air several programs at the same time, as well as provide more information within the signal of each programming stream. We seek comment on the ways broadcasters can use this technology to provide greater access to the media.

1. Disabilities

24. Digital technology offers great possibilities for broadcasters to make their programming more accessible to persons with disabilities. For example, digital technology could enable viewers to change the size of captions in order to see both captions and the text appearing on a TV screen. In addition, digital technology permits broadcasters to provide several different audio programs, which could make video description more widely available.

25. In urging that the Commission issue this NOI, People for Better TV ask that the Commission emphasize, among other things, the "expansion of services to person with disabilities." The group specifically suggests that a "digital broadcast station should provide closed captioning and description services for

65 FR 4211-01

(Cite as: 65 FR 4211, *4214)

the blind of PSAs, public affairs programming, and political programming." It urges that "[c]aptioning and descriptions in these areas should be phased in over the first 4 years of a station's digital broadcasts, but should be completed no later than 2006." Similarly, the Advisory Committee Report recommends that digital TV broadcasters "take full advantage" of new digital technologies to provide "maximum choice and quality for Americans with disabilities, where doing so would not impose an undue burden on the broadcasters." The Committee specifically enumerates closed captioning, video description, and disability access to ancillary and supplementary services. The Committee asks broadcasters to take full advantage of digital closed captioning technology that will enable viewers to change the size of captions to see both the caption and text otherwise behind the caption, and also calls on broadcasters to expand gradually captioning on PSAs, public affairs programming, and political programming. The Committee also requests digital broadcasters to allocate sufficient bandwidth among their multiple audio channels to make expanded use of video description technology feasible. The Committee further suggests that any digital broadcaster that provides ancillary and supplementary services not impinge on *4215 the 9600 baud bandwidth currently set aside for closed captioning, and encourages broadcasters to explore new digital technologies to expand access to such services to persons with disabilities, such as offering text options for material presented orally and an audio option for material presented visually. The Committee finally recommends that the Commission and other regulatory authorities work with set manufacturers to ensure that modifications in audio channels, decoders, and other technical areas are designed to ensure the most efficient, inexpensive, and innovative capabilities for disability access.

26. We seek comment on these proposals. We note that the Commission has adopted closed captioning rules to implement section 305 of the 1996 Act. These closed captioning rules require broadcasters (both analog and digital TV broadcasters, among other video programming distributors and providers) to caption new programming gradually, according to a phase-in schedule, and to caption 75% of "pre-rule" programming by 2008. Our rules also require broadcasters to pass through the captioning provided by program suppliers, unless it requires reformatting. Certain types of programming and providers, however, are exempt from these requirements. Should the Commission impose different requirements on DTV broadcasters? We note that we have recently proposed to adopt technical standards for the display of closed captioning on DTV receivers, and to require the inclusion of closed captioning decoder circuitry in DTV receivers.

27. With respect to video description, we note that the Commission has submitted two reports to Congress, pursuant to section 305(f) of the 1996 Act (codified as section 713(f) of the 1934 Act), and recently proposed limited rules to phase video description into the marketplace. In both of its reports to Congress, the Commission noted that, since digital technology does not have the capacity limitations of analog, its more widespread deployment will, in turn, make more widespread video description available. The Commission therefore suggested that any phase-in schedules should take into account the transition to DTV. In the Video Description Notice, we thus proposed limited rules for analog broadcasters, but made clear our intention to extend video description to digital broadcasters. We seek comment on how the Commission

65 FR 4211-01

(Cite as: 65 FR 4211, *4215)

could encourage DTV broadcasters to take advantage of the enhanced capabilities of the technology to provide more video description.

28. The Advisory Committee Report also recommends that DTV broadcasters make ancillary and supplementary services available to persons with disabilities. We seek comment on what types of ancillary and services broadcasters might provide, and on how they could be made accessible to persons with disabilities.

2. Diversity

29. Diversity of viewpoint, ownership, and employment have long been and continue to be a fundamental public policy goal in broadcasting. In section 309(j) of the Act, Congress directed the Commission to prescribe competitive bidding rules to promote "economic opportunity for a wide variety of applicants, including small businesses, rural telephone companies, and businesses owned by members of minority groups and women." In part, to fulfill that mandate, we offered a bidding credit to new entrants in our recent auction of broadcast licenses. Prior to the adoption of section 309(j), and throughout its history, the Commission has also pursued a number of initiatives to diversify broadcast station ownership and employment. For example, the Commission identified "diversification of control of the media of mass communications" as "a factor of primary significance" in its comparative licensing processes, and adopted diversity and minority "preferences" in certain of its random selection processes. In addition, we are currently conducting a number of studies to evaluate the barriers to acquisition of broadcast licenses, and barriers to entry or growth, that small, minority-, and women-owned businesses face, as well as to examine the impact of our multiple ownership rules on broadcast station ownership, and the impact of small, minority, and women ownership of broadcast stations on service. The Commission has also adopted equal opportunity rules that are designed to foster opportunity in the broadcast industry for minorities and women. The outreach portion of these rules was struck down on constitutional grounds by the D.C. Circuit. However, we issued a Notice of Proposed Rulemaking (63 FR 66104, December 1, 1998) proposing new EEO rules, and expect to issue an order in the near future.

30. Broadcasters have voluntarily pursued a number of initiatives to foster diversity. Most recently, broadcasters created an investment fund, with current initial cash commitments of \$175 million and ultimate purchasing power of possibly \$1 billion, to spur ownership of television and radio by minorities and women. In addition, many broadcasters have made voluntary commitments to abide by equal opportunity principles, whether required by law to do so or not.

31. People for Better TV ask that DTV broadcasters exploit digital technology to reflect the diversity of their communities, through any number of practices. The group explains that network programming cannot respond to diverse needs of each community, and so local stations must come to know and provide service to diverse communities. It asks that broadcasters support the goal of diversity and report quarterly on their efforts.

32. The Advisory Committee Report states that "[d]iversity is an important value in broadcasting, whether it is in programming, political discourse, hiring, promotion, or business opportunities within the industry." As such, it recommends that "broadcasters seize the opportunity inherent in the **digital television** technology to substantially enhance the diversity available in the

65 FR 4211-01

(Cite as: 65 FR 4211, *4215)

television marketplace." Many of the Advisory Committee's other recommendations bear on its goal of diversity in broadcasting. For example, the Advisory Committee Report advocates flexibility in multiplexing so that broadcasters can create new opportunities for minority entrepreneurship through channel-leasing arrangements, partnerships and other creative business arrangements. In addition, the Advisory Committee Report recommends that, out of the returned analog spectrum one new 6 MHz channel for each viewing community be reserved for noncommercial purposes, including educational programming directed at minority groups and other underserved segments of the community. The Committee also 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," including hiring and promotion policies that result in significant representation of minorities and women in the decision-making positions in the broadcast industry. The Committee hopes that all of the recommendations will help independent producers provide new programming. We note that several major civil rights organizations, including NAACP and La Raza, have raised similar concerns about the lack of cultural diversity on network programming.

33. The Advisory Committee Report generally does not contain separate, *4216 stand-alone recommendations on how to achieve diversity in broadcasting; its recommendations are largely contained within other portions of the report on which we have sought comment above. In addition, as indicated, the Commission currently has a number of initiatives underway designed to diversify broadcast ownership and employment. What other ways could and should the Commission encourage diversity in broadcasting, consistent with relevant constitutional standards? We seek comment on innovative ways unique to DTV that the Commission could use to encourage diversity in the digital era, and encourage commenters to submit specific proposals.

D. Enhancing Political Discourse

34. The Commission has long interpreted the statutory public interest standard as imposing an obligation on broadcast licensees to air programming regarding political campaigns. The Supreme Court likewise has recognized the impact television broadcasting has on our political system: "Deliberation on the positions and qualifications of candidates is integral to our system of government, and electoral speech may have its most profound and widespread impact when it is disseminated through televised debates. A majority of the population cites television as its primary source of election information, and debates are regarded as the 'only occasion during a campaign when the attention of a large portion of the American public is focused on the election, as well as the only campaign information format which potentially offers sufficient time to explore issues and policies in depth in a neutral forum.'" We seek comment on ways that candidate access to television and thus the quality of political discourse might be improved. We propose no rules or policies in this NOI. Rather our goal in this NOI is to initiate a public debate on the question of whether, and how, broadcasters' **public interest obligations** can be refined to promote democracy and better educate the voting public. This debate will greatly assist the Commission and Congress in determining what, if any, further steps should be taken on these important issues.

65 FR 4211-01

(Cite as: 65 FR 4211, *4216)

35. We note that some broadcasters have devoted many hours of program time to political coverage. According to a report recently issued by the National Association of Broadcasters ("NAB Report"), in the 1996 election cycle broadcasters valued the time they voluntarily devoted to political campaigns at \$148.4 million. This programming took the form of coverage of debates, conventions and issue fora. Many more hours of news programming not accounted for in these figures have been dedicated to covering local and national campaigns. In addition, during the 1996 elections, the Fox, PBS, and ABC networks voluntarily provided free airtime to the major presidential candidates using a variety of formats. For example, during the last six weeks of the 1996 presidential campaign the Fox television network offered each major presidential candidate free airtime, including the opportunity to make ten one-minute position statements that were broadcast in prime time. The PBS and ABC television networks also set aside free airtime for presentations by the major presidential candidates, and the A.H. Belo Corporation provided free airtime in selected federal congressional elections and gubernatorial races. The Commission exempted these efforts from the equal opportunity requirements, finding that the proposals qualified as on-the-spot coverage of a bona fide news event. We seek comment on what the Commission can do to encourage these kinds of voluntary efforts by television broadcasters.

36. On the other hand, we note that there are indications that many television broadcasters are providing scant coverage of local public affairs, and what coverage there is may be shrinking. For instance, a 1998 study by the University of Southern California Annenberg School for Communication found that only 0.31% of local news focused on the California governor's race, compared to a figure of 1.8% in 1974. Similarly, an April 1998 Joint Report by the Media Access Project and the Benton Foundation found that, in the markets examined, 35% of the stations provide no local news, and 25% offer neither local public affairs programming nor local news.

37. The Advisory Committee Report recommends that television broadcasters provide five minutes each night between 5:00 p.m. and 11:35 p.m. (or the appropriate equivalent in Central and Mountain time zones) for "candidate-centered discourse" thirty days before an election. The Committee envisions maximum flexibility for broadcasters, allowing them to choose the candidates and races--federal, state, and local--that deserve more attention. The Committee envisions that stations could choose formats, which might include giving candidates one minute of airtime, conducting mini-debates, or doing brief interviews, or including the "discourse" in newcasts. We seek comment on this idea. More generally, are there steps the Commission can take to promote voluntary efforts to enhance political debate and the information the public receives concerning candidates?

38. Others have proposed that the Commission adopt rules requiring broadcast licensees to provide time to candidates. Although the Advisory Committee Report proposed voluntary efforts, thirteen members of the Committee--a majority--contend that the Committee's recommendations do not go far enough, and that the Commission should, among other things, require television broadcasters to provide some airtime for national and local candidates. In addition, former FCC General Counsel Henry Geller, on behalf of himself and others, ask the Commission to require television broadcasters to provide political candidates a reasonable amount of time each day in advance of a general election. More

65 FR 4211-01

(Cite as: 65 FR 4211, *4216)

specifically, Geller et al. propose that the Commission require television broadcasters to provide twenty minutes of airtime each day thirty days before a general election in even-numbered years, and fifteen days before in odd-numbered years, when there are fewer elections. Geller et al. suggest that the Commission give television broadcasters the flexibility to decide how to provide the total of twenty minutes, except that the time should be provided between 6:00 a.m. to midnight, with at least five minutes in prime time. Geller et al. further suggest that the Communications Act requires the Commission to leave the selection of the races to be covered to the licensees. Geller et al. contend that the Commission's public interest authority extends to requiring broadcasters to provide time. We seek comment on these approaches, and on the Commission's authority to require broadcasters to provide airtime to political candidates. We also seek comment on the Advisory Committee's recommendation that the Commission should prohibit television broadcasters from adopting blanket bans on the sale of airtime to state and local candidates.

IV. Administrative Matters

39. Comments and Reply Comments. Pursuant to applicable procedures set forth in ss1.415 and 1.419 of the Commission's rules, 47 CFR 1.415 and 1.419, interested parties must file comments on or before March 27, 2000, and reply comments on or before April 25, 2000. Comments may be filed using the Commission's Electronic Comment Filing System (ECFS) or by filing paper copies. See Electronic Filing of Documents in Rulemaking Proceedings, 63 FR 24,121 (1998). *4217

40. Comments filed through ECFS can be sent as an electronic file via the Internet to <http://www.fcc.gov/e-file/ecfs.html>. Generally, only one copy of an electronic submission must be filed. In completing the transmittal screen, commenters should include their full name, Postal Service mailing address, and the applicable docket or rulemaking number. Parties may also submit an electronic comment via e-mail. To get filing instructions for e-mail comments, commenters should send an e-mail to edfs@fcc.gov, and should include the following words in the body of the message, "get form @your e-mail address>." A sample form and directions will be sent in reply.

41. Parties who choose to file by paper must file an original and four copies of each filing. All filings must be sent to the Commission's Secretary, Magalie Roman Salas, Office of the Secretary, Federal Communications Commission, 445 Twelfth Street, S.W., TW-A325, Washington, D.C. 20554.

42. Parties who choose to file paper should also submit their comments on diskette. These diskettes should be addressed to: Wanda Hardy, Paralegal Specialist, Mass Media Bureau, Policy and Rules Division, Federal Communications Commission, 445 Twelfth Street, S.W., 2-C221, Washington, D.C. 20554. Such a submission should be on a 3.5 inch diskette formatted in an IBM compatible format using Word 97 or compatible software. The diskette should be accompanied by a cover letter and should be submitted in "read only" mode. The diskette should be clearly labeled with the commenter's name, proceeding (including the lead docket number in this case (MM Docket No. 99-360), type of pleading (comment or reply comment), date of submission, and the name of the electronic file on the diskette. The label should also include the following phrase "Disk Copy--Not an Original." Each diskette should contain only one party's pleadings,

65 FR 4211-01

(Cite as: 65 FR 4211, *4217)

preferably in a single electronic file. In addition, commenters must send diskette copies to the Commission's copy contractor, International Transcription Service, Inc., 445 Twelfth Street, S.W., CY-B402, Washington, D.C. 20554.

43. Comments and reply comments will be available for public inspection during regular business hours in the FCC Reference Center, Federal Communications Commission, 445 Twelfth Street, S.W., CY-A257, Washington, D.C. 20554. Persons with disabilities who need assistance in the FCC Reference Center may contact Bill Cline at (202) 418-0270, (202) 418-2555 TTY, or bcline@fcc.gov. Comments and reply comments also will be available electronically at the Commission's Disabilities Issues Task Force web site: www.fcc.gov/df. Comments and reply comments are available electronically in ASCII text, Word 97, and Adobe Acrobat.

44. This document is available in alternative formats (computer diskette, large print, audio cassette, and Braille). Persons who need documents in such formats may contact Arminta Henry at (202) 4810-0260, TTY (202) 418-2555, or ahenry@fcc.gov.

45. Ex Parte Rules. Pursuant to the provisions of 47 CFR 1.1204(b)(1) this is an exempt proceeding. Ex parte presentations to or from Commission decision-making personnel are permissible and need not be disclosed.

IV. Ordering Clause

46. Pursuant to the authority contained in sections 4(i), 303(g), 303(r), 336 and 403 of the Communications Act of 1934, as amended, 47 U.S.C. 154(i), 303(g), 303(r), 336, and 403, this Notice of Inquiry is adopted.
Federal Communications Commission.

Magalie Roman Salas,

Secretary.

[FR Doc. 00-1794 Filed 1-25-00; 8:45 am]

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65 FR 4211-01, 2000 WL 57806 (F.R.)

END OF DOCUMENT

Cheri Huffman
3439 Wayne Rankin Lane
Louisville, Tennessee 37777

March 17, 2000

William E. Kennard
Chairman
Federal Communications Commission
445 12th Street SW
Room 8B-201H
Washington, DC 20554

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RE: Public Interest Obligations of Television Broadcast Licensees
47 CFR Part 73
MM Docket No. 99-360
FCC 99-390

Dear Chairman Kennard:

I am certified public accountant currently in my second year of law school at the University of Tennessee, Knoxville. I am commenting on the proposed rule for the public interest obligations of television broadcast licensees (MM Docket No. 99-360) as a component of an administrative law class.

The Federal Communications Commission (FCC) should not impose new or additional public interest obligations on digital television licensees until the transition to digital television is complete and the operations of the industry are firmly established. Broadcasters already face an unstable environment due to the technical and economic uncertainties included in the transition to digital television. The current public interest requirements for analog television, which also apply to digital transmission¹, will adequately serve to protect the public's interest until the digital industry is fully developed.

TECHNICAL UNCERTAINTIES

The technical uncertainties in the transition to digital television (DTV) include: 1) the methods that licensees will use to broadcast, 2) the impact that cable television providers will have on the provision of digital service, and 3) the timing of the transition to DTV. These uncertainties make it unreasonable to estimate the obligations that should be placed on broadcasters prior to the complete transition to DTV. Absent a strong analysis of the actual benefits and/or burdens of DTV on broadcasters, the type and amount of new or additional public interest obligations can not be sufficiently appraised.

Broadcast Methods

At this juncture, the methods that licensees will use to broadcast is unpredictable. Whether broadcasters will primarily utilize single-signal high definition broadcasting or multiple channel multiplexing is unknown. This variable contributes to the difficulty of adequately estimating the profitability of digital television.

With respect to multiplexing, the Gore Advisory Commission made the following recommendation:

“Once digital television becomes a reality, apply a two-year moratorium to provide ample opportunity for broadcasters to explore options in the marketplace. Thereafter, if broadcasters elect to multicast and in so doing realize a substantial increase in revenue, Congress or the FCC should apply a menu of options to multicasting broadcasters.”²

The recommended options included either a monetary fee or an in-kind public service contribution.

Although this idea has merit, the subjective elements overshadow the basic premise. First, the Gore Advisory Commission fails to provide the criteria that will establish DTV as a “reality.” Second, two years may not provide sufficient time to develop the stable revenue history necessary to calculate a revenue-based fee for stations that choose not to air the specified public interest programming. Third, the amount necessary to constitute a “substantial increase in revenue” is subject to considerable interpretation. Before the subjective elements of the Gore Advisory Commission’s recommendation are clarified, broadcasters should first have ample opportunity to explore broadcasting methods.

Impact of Cable

Imposing public interest requirements on broadcasters at this time also fails to recognize the potential impact of cable providers, who are less restricted by governmental regulation.³ Unfortunately, the likely impact of cable providers on digital television may remain unknown for some time because cable providers and consumer electronics manufacturers have yet to agree on many DTV-Cable compatibility issues.⁴ The minimal amount of technical standards already agreed upon came only after the FCC threatened immediate rulemaking on the technical issues.⁵ The effect of cable providers on the revenues and market share of television broadcasters could significantly alter the risks and opportunities available.

The “pay-or-play” model considered by the Gore Advisory Commission would level the disproportionate regulation between broadcasters and cable.

Unfortunately, that proposal was emphatically rejected by the Advisory Commission. Until the consequences of cable DTV development can be adequately assessed, the FCC should not attempt to set regulations in an unpredictable environment.

Transition Timing

All stations, except the Public Broadcasting Station, are required to broadcast digitally by 2006 unless 85 percent of the broadcasters' communities do not have a television set that receives digital signals. This creates a flexible deadline that could delay digital broadcast requirements until after 2010.⁶ Consumers may be reluctant to purchase digital televisions until broadcasters have provided additional DTV programming. Conversely, broadcasters may be reluctant to provide additional DTV programming until more televisions receive the broadcasts. This Catch-22 has the ability to significantly delay the transition to DTV. Until these matters are addressed and resolved, new public interest requirements only add an additional variable to an already chaotic mix.

ECONOMIC UNCERTAINTIES

Additional public interest requirements would also add more financial demands on broadcasters already facing an uncertain economic future with digital television. The extreme capital requirements needed for the transition, in combination with an unconvinced consumer base and increased programming costs, pose huge challenges for the broadcasting industry.

Equipping a local television for digital television costs between three million and ten million dollars.⁷ During the transition to digital television,

broadcasters also must continue broadcasting in analog. One of the risks assumed by broadcasters is that these capital expenses will be offset by a consumer base that has yet to materialize.

Prices for analog television decoders begin at approximately \$650, while high-definition digital televisions start at \$3,000 and most are over \$5,000.⁸ The premise that Americans can afford to pay this premium in return for enhanced viewing seems dubious at best. Although manufacturers expect prices for the television units to drop below \$3,000⁹, these televisions will remain out of the price range of most families until their prices become comparable with analog sets. In essence, the broadcasters are investing material capital sums in preparation for a consumer base that is currently undeveloped.

The Gore Advisory Commission recognized that the production costs associated with digital programming are 10 to 20 percent higher than the costs required for analog programming. Therefore, broadcasters will also be forced to absorb an increase in variable costs before the consumer base is stabilized.

In an effort to offset these costs, broadcasters have entered into underwriting deals with electronics manufacturers. For example, CBS' agreements with Mitsubishi and Samsung have subsidized specific HDTV broadcasts.¹⁰ However, the future of this type of programming assistance is speculative. Whether or not these underwriting agreements should be considered in assessing the burdens placed on broadcasters will depend on whether the underwriting subscriptions continue after the transition to DTV is complete.

ALTERNATIVE PROPOSAL

I propose that the FCC delay any new or additional public interest requirements for broadcasters until the transition to DTV is fully complete and the repercussions of any additional obligations can be assessed with greater accuracy. The information received from this Notice of Inquiry (MM Docket No. 99-360) can certainly provide future assistance in formulating public concerns. However, to truly meet the public's interest the FCC should focus current efforts on methods to ensure that the transition from analog is as smooth as possible.

Broadcasters are required to continue to transmit in analog signals until at least 2006. During the transition, broadcasters should continue to meet existing public interest requirements. If a broadcaster chooses to multi-cast during the transition, the existing public interest requirements should be met on the broadcaster's primary channel. When analog reception is no longer a viable alternative for consumers, the DTV market will be forced to develop. Broadcasters will no longer have the additional expense of transmitting on two frequencies, and the total capital costs associated with the implementation of DTV will be known.

Once a complete transition to digital has occurred, the FCC should apply the two-year moratorium suggested by the Gore Advisory Commission to all additional public interest requirements. At the end of this interim period, the adequacy of existing public interest requirements in the digital format can be assessed from a current perspective. Broadcasters will have had the chance to experiment with the opportunities provided by the digital medium after the

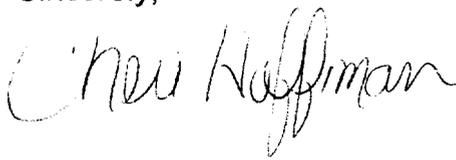
transition responsibilities have concluded. The consumer market for the DTV should be stabilized, and all consumers will have the need as well as the opportunity to address any relevant concerns. At the current time, comments from consumers are incomplete due to both the limited number of digital televisions in use and the fact that most consumers continue to purchase and view analog televisions. Postponing any regulations, even if voluntary, would allow more thorough input into the process. Until that time, broadcasters would be free to experiment with any new or additional public interest requirements they feel necessary to maintain their public trusteeship.

CONCLUSION

In conclusion, the FCC should not impose new or additional public interest obligations on DTV licensees until the technological and economic uncertainties facing the industry are resolved. Once a complete transition to DTV and a two-year moratorium have occurred, the rulemaking procedures should begin.

I respectfully request that the FCC consider this proposal as one that keeps the broadcasting industry from absorbing an undue burden while maintaining the public interest requirements necessary to meet the broadcasters' public trusteeship.

Sincerely,

A handwritten signature in black ink that reads "Cheri Huffman". The signature is written in a cursive, flowing style.

Cheri Huffman

-
- ¹ 5th Report and Order in the DTV Proceeding, 60 Fed. Reg. 26,966 (1997)
- ² Final Report of the President's Advisory Committee on the Public Interest Obligations of Digital Television Broadcasters Report (Dec. 18, 1998)
- ³ Dick Wiley, *From the Desk of...Dick Wiley*, Communications Today, Feb. 7, 2000.
- ⁴ *This Week's News*, Television Digest, Feb. 28, 2000.
- ⁵ *Id.*
- ⁶ Gigi Sohn, *National Center for Accessible Media* (visited Mar. 13, 2000) <<http://www.wgbh.org/wgbh/pages/ncame/dtv.html>>.
- ⁷ Rocky Swift, *Florida Television Stations Ready for 2002 Switch from Analog to Digital*, Sun Herald, Mar. 2, 2000.
- ⁸ *Television and Video. Special Section. TV Now (Your guide to the choices in a time of television transition)*, Consumer Reports, Dec, 1999, at 12.
- ⁹ James Morrow, *News You Can Use; Personal Technology*, U.S. News and World Report, Feb. 28, 2000, at 82.
- ¹⁰ Glen Dickson, *CBS nets HD Sports Deals*, Broadcasting & Cable, Jan. 10, 2000, at 52.

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Administrative Law: Comment to F.C.C

Steve Cox
414-37-9767

Introduction

This comment is in response to the F.C.C.'s Notice of Proposed Rulemaking dated January 26, 2000 (MM Docket No. 99-360; F.C.C. 99-390; 65 FR 4211), entitled "Public Interest Obligations of Television Broadcast Licensees." My name is Steve Cox and I am a law student at the University of Tennessee. I am currently enrolled in a class on Administrative law and am writing to you as part of an assignment. In this comment I will discuss proposals for new requirements as they would relate to digital broadcasters, the obligations every broadcaster has (or should have) to disclose the content and programming they transmit, obligations of digital broadcasters as they relate to disaster warnings, and every broadcasters minimum public interest requirements. Briefly, I believe that more stringent requirements should not be placed on digital broadcasters as opposed to regular broadcasters, but the digital broadcasters should have to comply with all present and hereinafter adopted regulations on each of their broadcast streams. I believe that all broadcasters should post the content and type of programming they are broadcasting on their website, and provide a vehicle for public comment. Furthermore, I believe that digital broadcasters, (if economically feasible) should provide enhanced disaster warnings. Finally, I encourage the Commission to define its "minimum public interest requirements" more concretely.

I. Application of New Requirements

First, in paragraph five of the NOI the Commission indicated that "[b]roadcasters and the public are also on notice that the Commission may adopt new public interest rules

for digital television.” This statement met with two main reactions. The first claimed that the new rules “should be clearly defined and commensurate with the new opportunities provided by the digital channels broadcasters are receiving. . . .” The second viewpoint exposed that “current public interest rules need not change simply because broadcasters will be using digital technology to provide the same broadcast service to the public.” 65 FR 4211, 4212 (2000). I believe the proper course is somewhere in between.

As long as broadcasters are offering the same services, there is no reason to issue new rules and regulations simply because they are now using a more efficient and diverse means to transmit their signals. I do not believe we should succumb to the notion that just because we have something different we have to pass new regulations and standards. So in one sense, I see no reason to burden digital broadcasters with government regulation that they would not otherwise have to deal with. Why should the FCC make it more difficult and onerous for digital broadcasters to comply with regulation? What purpose does that serve?

By the same token, however, digital broadcasters should not get a break from the rules because they find a more efficient way to broadcast. Digital broadcasters should not be allowed one signal that complies with the Commission’s regulations while its other signals are free from any and all requirements. Therefore, I propose that if a broadcaster chooses to multicast (sending out multiple signals along the same channel allowing the customer to choose) he should be required to comply with all Commission regulations on all signals. In effect, he should commit the same percentage of time,

money, and energy to public interest requirements on all signals. This brings me to my second, related point.

Page 4212 of the NOI states in part:

It is . . . clear that DTV broadcasters must air programming responsive to their communities of license, comply with the statutory requirements concerning political advertising and candidate access, and provide children's educational and informational programming, among other things. But as People for Better TV ask, how do these obligations apply to a DTV broadcaster that chooses to multicast? Do a licensee's public interest obligations attach to the DTV channel as a whole . . . or to air some of its public interest programming on more than one of its program streams? . . . A majority of the members of the Advisory Committee believe that the FCC should prohibit broadcasters from segregation candidate-centered programming to separate program streams, because they believe that would violate candidates' reasonable access and equal opportunities.

How these questions are answered depend on which theory one adheres to regarding the reason for regulation. According to one viewpoint, the regulations provide for certain information to be made available to the public. The Commissions rules state the type of information to be made available is valuable and necessary. Whether or not the public uses or accesses this information is entirely up to them. The point is that every broadcaster has a duty to make the information available. According to this viewpoint, it would be perfectly acceptable for a digital broadcaster to broadcast all material necessary to fulfill the requirements as directed by the FCC on one signal. The public would have access to the information if they want it, and if they do not, the other signals will be free to broadcast without FCC requirements.

According to the second viewpoint, the goal of the regulations mandating the access to public information is to *make sure* the public gets the information. The information is important. Therefore it is necessary to inform people using rules and regulations that govern the broadcast of public interest information because they would

not otherwise access it. Here, digital broadcasters should be required to fulfill public interest requirements on all streams.

For the same reasons I stated in my first point, I believe digital broadcasters should be required to transmit the required public interest information on all broadcast streams. Allowing a digital broadcaster to allocate all public interest requirements to one digital stream would not further Congress' goal of giving wide access to public interest information.¹ Fewer people would choose to access the information. The FCC does not mandate these requirements so the public will have the information at its disposal; the requirements are mandated to make sure the public watches and receives the information. Otherwise, public interest information would not be required on television. People can always buy newspapers.

II. Disclosure Obligations

The Advisory Committee Report recommends that DTV broadcasters "should be required to make enhanced disclosures of their public interest programming and activities on a quarterly basis, using standardized check-off forms that reduce administrative burdens and can be easily understood by the public."² Furthermore, the enhanced disclosures "should include, but not be limited to contributions to political discourse, public service announcements, children's and educational programming, local programming, programming that meets the needs of underserved communities, and community-specific activities." These recommendations are reasonable. The only real

¹ 47 U.S.C.A. § 336(d) states "Nothing in this section shall be construed as relieving a television broadcasting station from its obligation to serve the public interest. . . ."

problem I have with these requirements is that they appear to apply only to Digital Broadcasters. If these disclosure requirements are to become regulations, they should apply across the board to all broadcasters. That being said, however, I believe these requirements would go toward achieving the Commission's goal in making public interest material accessible to the public. Most all Broadcasters today have a website. By mandating that public interest programming information be placed on a Broadcaster's website, the information will be readily available for concerned parents and other members of the public. I think we all know that TV listings in the newspaper are not always accurate or complete as to the content and themes of certain programs. Placing descriptions of public interest programming on the web will allow any one to "shop" for the best source and variety of public interest TV.

Furthermore, this should not be a large expense to broadcasters. As mentioned previously, the Advisory Committee recommended that check-off forms be used to reduce administrative burden in handling the disclosures. The reduction of administrative burden should likewise reduce the burden on the broadcasters to disclose their public interest programming. Again, placing this information on the internet would not be a significant burden. This information should include the type of program, and the broadcast should be classified as to its intended audience. Is this a childrens' show? If so, what are the intended age groups? If the show is one dedicated to political discourse, the subject matter to be covered should be made available on the web so that people can choose what they are interested in. These disclosure requirements will be of great help to the public, yet should not be overly burdensome to broadcasters.

² 65 FR 4211, 4213 (2000).

I would also like to comment on the how broadcasters could use the Internet to ensure that they are responsive to the needs of the public. On each broadcasters' website where public interest broadcasts are described and listed, there should be opportunity for feedback. The easiest way would be to include a survey along with each show. The survey could be a form drafted by the Commission to insure fair, unbiased questions and ease of understanding. The survey form would be the same for each type of public interest show, i.e., political, children, etc., and would be uniform for all broadcasters. This would allow the public to comment directly to the broadcaster on any given show. Each website could contain an email address specifically for the publics concerns. However, for the same reason that the enhanced disclosures would be done on check-off forms to reduce administrative burden, requiring broadcasters to read through each e-mail may prove too burdensome. The forms would likewise reduce the broadcaster's burden of responding to public opinion regarding public interest material. Plus, the relative ease of tabulating the responses would allow broadcasters to meet the public's needs more quickly.

III. Disaster Warnings

The Advisory Committee reports that Digital Television will enable broadcasters to pinpoint certain households in transmitting disaster warnings. Should this advancement be possible without undue burden on the broadcasters, this type of pinpointing should be mandatory. Although this recommendation conflicts with my general belief that Digital Broadcasters should not be subject to requirements other

broadcasters are not, I believe there should be an exception here due to the overwhelming public safety interest. I suggest that some people see a warning on television and instead of paying attention to the message, they complain about that annoying little sound that comes with it. The bottom line is that some people do not believe the dangerous conditions apply to them. By letting everyone know the exact location of a tornado, or the path of a thunderstorm, the public as a whole will pay more attention to the warning.

In addition to increased awareness, the new technology could serve to warn certain groups specifically. For instance, those in the direct path of a tornado would know to go to the basement. The specificity of a transmission will bring its import closer to home.

If this pinpointing is possible, the NOI asks how the Commission should encourage digital broadcasters to deploy such technology. If the burden is not significantly higher than the current cost and expense to broadcasters to broadcast emergency warnings, then the current regulations should simply be modified to include this type of transmission. Should the costs of such transmissions be higher than those broadcasters currently experience, the Commission should attempt to alleviate some of the cost.

IV. Minimum Public Interest Requirements

First, I have made my position clear that digital broadcasters should not have higher or more stringent standards in the area of public interest transmissions. The standards should be the same for everyone. That being said, I believe the Commission should look into how to define public interest broadcasting. The regulations do not give

any definite instruction on public interest programming such as children's education.³ Indeed, the current regulations do not even mandate affording time to political candidates. They simply state that if time is afforded, it should be equal.⁴

I believe the Commission should define public interest requirements more specifically, although I do not believe the cost to the broadcasters must increase significantly. Each broadcaster should be required to give equal time to local and national politics. This requirement may be filled on the local news every night. Indeed, many broadcasters may already adhere to this proposed rule, and therefore there will not be any additional burden on them. Other digital broadcasters may wish to contract with local stations to carry their local news. In either case, no more than half an hour should be mandated by the commission for either regular or digital broadcasters. The regulations in place currently regarding giving each candidate for office equal air-time are prudent and should not be altered.

V. Conclusion

To conclude, digital broadcasters should not face heavier burdens and greater regulation simply because they broadcast using the new digital technology. To the extent that it is economically feasible, digital broadcasters should provide greater accuracy in warning of impending disasters. Television as a whole would benefit from more disclosure by broadcasters, and the internet would be an effective and relatively inexpensive way to communicate with the public at large. Lastly, minimum public

³ 47 C.F.R. § 73.671 simply states that broadcasters should broadcast educational programming for children over the term of their license.

⁴ 47 C.F.R. § 73.1941

interest requirements are good for television if they are defined precisely by the commission and are not too burdensome on broadcasters as a whole.

I ask that you consider carefully any new rules regarding digital television. DTV has the potential to open up new paths of communication. However, access to these paths should not be made too difficult by excessive regulation. To the extent feasible, however, television as a whole can be improved with more precise, definite requirements.

Sincerely,

Stephen E. Cox, Jr.