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**MAR 23 2000**

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**Comments to the Federal Communications Commission**

**47 CFR 73 (MM Docket No. 99-360; FCC 99-390)**

**Public Interest Obligations of Television Broadcast Licensees**

This comment discusses the applicability of the Children's Television Act of 1990 to digital television licensees.

Rachel M. Eaton

**Introduction:**

This comment is narrowly focused on the Children's Television Act of 1990 ("Act") as it should be applied to digital television licensees. I am writing this comment as a third year law student at the University of Tennessee College of Law. As a young person planning to have children of my own, I see digital television as effecting my future family life in a significant way. However, my concern also lies with the rest of American children, some of whom will not enjoy DTV technology for many years.

My proposals seek to find a balance between the compelling interest in children's education with our nation's valued First Amendment rights. In the past the limitations of traditional television broadcasting created a need for regulation of children's television. However, the advent of DTV, along with VHS and DVD technology will gradually make regulation unnecessary. I propose the regulations contained in the Act continue to apply to non-digital broadcasters. Digital television broadcasters, however, should not be held to the standard set out in the Act. DTV licensees should be given every incentive to self-regulate, but it is likely the market will take care of itself, as pressure from parent and school groups increases. Broadcasters are seeing children's television as a valuable market, with quality children's programming becoming the standard, not the exception.

## **A History of Children's Television Regulation:**

A reading of the first amendment would seem to imply an attitude against restrictions in television broadcasting. However, the Federal Communications Commission (FCC) exists to regulate various aspects of human expression, including television broadcasts. What has been called the "Reagan Revolution"<sup>1</sup> of the 1980's sought to deregulate all industry in the United States. The trend toward deregulation was adopted by the FCC and the television industry began a move away from regulation. This hands-off approach continued until the passage of the Children's Television Act of 1990. The Act was prompted by public sentiment that the deregulation policy of the Reagan administration was having a negative impact on children's television programming. It should be noted that the Act was not passed until Reagan was out of office, and even then Bush merely allowed the passage of the Act, never actually signing the bill into law.<sup>2</sup> Studies conducted in the 1980's suggested television licensees were not offering enough children's programming because there was no financial incentive to do so.<sup>3</sup>

Basically, the Act consists of three parts: time restrictions on commercials during children's broadcasting, the programming standards under consideration for license renewal, and the establishment of an endowment to promote quality children's programming. Another element has been added to the Act under the Clinton

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<sup>1</sup>Michael J. Palumbo, *Broadcast Regulation, Has the Marketplace Failed the Children: The Children's Television Act of 1990*, 15 Seton Hall Legis. J. 345 (1991) (this article was written just after the passage of the Act, and contains constitutional concerns raised by the limitations of the Act).

<sup>2</sup>Palumbo, *supra* note 1 at 356.

<sup>3</sup>John Uscinski, *Deregulating Commercial Television: Will the Marketplace Watch Out for Children?*, 34 Am. U. L. Rev. 141, 142 (1984) (a article written before the passage of the Act, which expresses the fundamental concerns leading up to the passage of the Act).

administration, which includes mandatory minimums on the amount of children's shows with more specific quality standards required for license renewal.

The Act itself appears to have a broad policy motive: putting the best interests of children first. It calls for programming that develops "fundamental intellectual skills"<sup>4</sup> and demands overall programming which serves "the educational and informational needs of children".<sup>5</sup> However, the actual regulations of the Act are very specific. The commercial restrictions are clear, limiting broadcasters to specific amounts commercial air time per hour. Also, the more recent three hour minimum of children's programming is quite strict. Stations which broadcast at least three hours each week of programming "specifically designed to serve the educational and informational needs of children will be found in compliance with their general obligation under the Act."<sup>6</sup> Of course, clearly written regulations are appreciated, especially in light of the rather nebulous "public interest" standard of the Communications Act of 1934. However, it seems as though the Act treats broadcasters much like the children it seeks to protect.

By passing the Act, "Congress . . . sought to protect children from the abuse of the lack of programming choices television imposes."<sup>7</sup> However, digital television does not limit broadcasters to airing one show at a time. It is very possible the Act has no relevance in the realm of DTV. Broadcasters are no longer are forced to choose between highly rated adult programming and less profitable children's shows. Of course, non-digital broadcasters are still limited to airing one show in any given time slot. The

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<sup>4</sup>Children's Television Act of 1990, 47 USCA sec. 394(a) (1999).

<sup>5</sup>*Id.* at sec. 303b(a)(2).

<sup>6</sup>James J. Popham, *Passion, Politics and the Public Interest: The Perilous Path to a Quantitative Standard in the Regulation of Children's Television Programming*, 5 CommLaw Conspectus 1 (1997) (contains a detailed account of the political process leading up to the passage of the mandatory minimum programming guidelines).

<sup>7</sup>Palumbo, *supra* at note 1, 400.

Act still has a place for non-digital licensees, and should continue to be in effect so long as there are children without the privilege of DTV. It appears as though a return to Reagan-era deregulation will work in relation to digital television licensing. Children are a powerful audience, and there is money to be made by airing shows which educate children and impress parents. Networks now have the incentive they need to air quality children's television, without sacrificing prime time adult programming.

### **The Nickelodeon Effect:**

Since the introduction of Sesame Street more than thirty years ago, PBS has set the standard for children's broadcasting. Quality children's television is easy to find when Wishbone, Big Bird or Barney come on the air at times geared to increase viewing by children. But, PBS is a "public" television station, which generally means the pressure of turning a profit is not a factor in choosing programming. As much as PBS programs may be a model to other networks, it is unrealistic to expect a profit-driven network to produce and air shows which create little or no revenue. A better model is a network which seems to produce entertaining and educational shows while still turning a profit. In the past decade, one network has proven this is possible. That network is Nickelodeon, a network parented by MTV.

Nickelodeon has tuned into the recent trend of children in the marketplace. It is easy to see from the sale of Pokemon cards or the box office returns from Disney movies that parents spend huge amounts of money on their kids. Increasingly parents are pushing their children toward entertainment which is also educational.

The most impressive example of Nickelodeon's commitment to quality programming is Nick Jr., a series of shows airing weekday mornings. With Nick Jr., the network demonstrates over-compliance with the commercial restrictions of the Act. Instead of spreading commercials throughout an hour of programming, the commercials are shown as a group at the end of the hour. The only breaks during programming are for educational skits and station identification. Nickelodeon takes a big risk by airing an hour's worth of commercials at once. Viewers could simply anticipate the hourly break and not watch the commercials. But the network is catering to its preschool audience, with an understanding of how important the educational needs of young children are.

A primary reason for the commercial limits imposed by the Act is the suggestion that children are influenced by the content of commercials.<sup>8</sup> Studies have shown that "children 5 years or younger have difficulty identifying advertising content and discriminating the advertisements from the program."<sup>9</sup> Nick Jr. eliminates this problem by the use of Face. Face is a cartoon face who appears on the screen between the show and the commercials. Face informs the audience of the upcoming commercials and when programming will resume. Additionally, Face throws in educational tidbits for the viewer.

However, the primary achievement of Nick Jr. is not in its advertising policy. What impresses me most is the content of the programming. Two shows in particular demonstrate how a private network can produce quality entertainment for children. These shows are Gula Gula Island and Alegria's Window. Gula Gula Island involves a

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<sup>8</sup>Diane Aden Hayes, *The Children's Hour Revisited: The Children's Television Act of 1990*, 46 Fed. Comm. L.J. 293, 296 (1994) (an excellent article filled with suggestions to make the Act more effective, also a good explanation of the Act and its implementation).

<sup>9</sup>Palumbo, *supra* note 1, at 376.

family living on the Carolina coast as they learn and deal with new situations in daily life. The unusual aspect of the show is the diversity of the cast. The main characters are part of an African American family who educate other characters about their heritage. The rest of the cast are a mixture of Asian, Hispanic, and Caucasian neighbors in the community. The example set by the show is one of close family ties and close community bonds, without regard to race or color.

Another well written show on Nick Jr. is *Alegra's Window*. The fact that most of the characters are puppets does not make this show unrealistic. The setting of much of *Alegra's Window* is at the daycare center Alegra attends. Nickelodeon has chosen to deal with the emotional issue of children going to daycare when mothers go back to work. Naturally, the primary focus of the programming is educational, but very often Alegra's feelings come into play. The characters help Alegra deal with her insecurities about daycare and develop a positive attitude toward the experience. The overall attitude of the show is very positive, giving the viewer a sense that daycare can be fun.

These are just a few examples of Nickelodeon's responsible efforts to educate and entertain children while existing in a profit-driven environment. If Nickelodeon can devote large portions of its programming to children's television, then certainly DTV broadcasters can find time on one of their channels to do the same. There is an obvious market for quality children's television, and digital technology will allow broadcasters to serve the needs of children without sacrificing valuable air time. Additionally, many digital channels will be commercial free, allowing parents to choose these channels over those that do air commercials.

### **Conclusion:**

It is easy to justify restrictions on freedom of speech when the interests of children are involved. However, regulations should only exist when there is an obvious need. The deregulation of television broadcasting during the 1980's created a need in the 1990's for the Children's Television Act of 1990. But new technology brings with it the opportunity to cure past problems and learn from our mistakes. Digital television is going to do great things for children's programming. Non-digital networks, such as Nickelodeon, have already noticed the demand for and profit potential of quality children's television.

Digital television has made the restrictions imposed by the Act unnecessary. Licensees are now equipped to meet the demands of parents and educators without threatening the stability of a network's finances. As long as the market for quality children's television exists, there will be programming available on digital television. Naturally, until all children have access to DTV, the Act should remain in effect for non-digital licensees. But as we move toward this new technology, we should embrace what digital television allows us: freedom from the restrictions of the past.

RECEIVED  
MAR 23 2000  
FCC MAIL ROOM

TO: William E. Kennard, Chairman-FCC

FROM: Natalya L. Sowers

CC: Professor Glenn H. Reynolds

DATE: March 11, 2000

RE: Mandatory Public Interest Obligations Of DTV  
Broadcasters

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**INTRODUCTION AND BACKGROUND**

Dear Chairman Kennard:

On January 26, 2000, the Federal Communications Commission published a notice of proposed rulemaking regarding the public interest obligations on the broadcasters as they adopt digital transmission technology. Proposed Rules, 47 Fed. Reg. 73 (Jan. 26, 2000). The Commission noted that for seventy years, since the Communication Act of 1934, "broadcasters have been required . . . to serve the 'public interest, convenience, and necessity.'" The Commission reaffirmed that digital TV broadcasters must comply with these existing public interest obligations.

The Commission is considering, however, to adopt new public interest rules that would affect digital television only. These new rules would be adopted in addition to the

already existing public interest standards applicable to digital TV broadcasters. The Commission seems to be of the opinion that these additional rules are justified by the new opportunities that the digital TV broadcasters will receive in the future.

I am writing in opposition to these new additional public interest standards. First, these additional rules are unwarranted in view of the uncertainties that surround the digital TV technology. Second, these rules would not serve any public interest, while unnecessarily burdening broadcasters.

#### **DISCUSSION**

Under the Communications Act of 1934, broadcasters must comply with a number of "affirmative public interest programming and service obligations." The Commission ensures this compliance by approving or transferring broadcast licenses only when it "first find[s] that doing so will serve the public interest." As a part of their public interest service, broadcasters must cover issues "facing their communities," air "children's educational and informational programming," and comply with the political broadcasting requirements. The statutory political broadcasting requirements, for example, concern such issues

as "equal opportunities, charges for political advertising, and reasonable access for federal candidates." Moreover, broadcasters are "prohibited from airing programming that is obscene, and [are] restricted from airing programming that is 'indecent' during certain times of the day."

Throughout the years since the Communications Act was passed, the Commission has been satisfied with this set of standards for the analog TV broadcasters and found them sufficient to ensure that broadcasters act as "public trustees" and "serve public interest." I believe that the same set of public requirement standards should apply to the digital TV broadcasters and that the Commission should not burden DTV broadcasters with any new additional public interest rules.

#### **Uncertainties Facing Digital TV Broadcasters**

No one denies that digital TV broadcasters, just as analog TV broadcasters, should strive to serve public interest. It is not at all clear, however, that there should be adopted an additional set of mandatory public interest requirements specifically and exclusively for digital TV broadcasters.

One of the proposals in this regard is that of the Advisory Committee that recommended in its report that

"[t]he FCC . . . adopt a set of mandatory minimum public interest requirements for digital broadcasters that would not impose an undue burden on digital broadcast stations, [and that] should apply to areas generally accepted as important universal responsibilities for broadcasters."

There are several problems with this proposal. First, it "ask[s] broadcasters to take a pledge to do something that they are already doing."<sup>1</sup> Second, and most importantly, it ignores the uncertainties that surround the digital services.

One of the uncertainties that the digital TV broadcasters face is what will be their market. This market can certainly be affected by the high prices of the DTV sets<sup>2</sup> and the ease or difficulty with which those sets will be compatible with other consumer electronics, such as VCRs, DVDs, and camcorders.<sup>3</sup>

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<sup>1</sup> Paige Albinak, *Gore Plan to Move Forward*, BROADCASTING & CABLE, Nov. 16, 1998, at 24.

<sup>2</sup> "Currently, a monitor capable of showing a full high-definition picture . . . may cost from \$3,000 to \$10,000, and set-top boxes that receive DTV broadcasts start at about \$700." *New Motorola Module technology Puts DTV on Standard Television; TVs, VCRs and Set-Top Boxes with Motorola's Affordable M-DTV Technology Puts DTV in Front of Consumers*. BUSINESS WIRE, Oct. 4, 1999, at 57.

<sup>3</sup> None of these devices are compatible with the DTV sets presently.

The DTV market will also be affected by whether stations in a given market will be broadcasting digital signals. In its turn, the local stations' willingness to convert to DTV will be affected by the cost of this change<sup>4</sup> and by the advertisers' and consumers' reaction to the new digital technology.

It is thus unclear what will be the digital technology's place in the communications market. Because of the uncertainty of the success of the digital technology, it is hard to define exactly what public interests this new technology will affect, and, as a result, what public interests must be protected. After all, such standards may prove to be unworkable, if not obsolete, when the technology finally reaches the public.

#### **Burdens and Challenges Surrounding Digital TV**

Attempts to define the "universal responsibilities" for DTV broadcasters appear misplaced especially in light of the technical difficulties with which these broadcasters are currently struggling. The Commission should pay closer attention to the numerous technical issues unresolved instead of simply pressuring for a faster industry action

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<sup>4</sup> *TV Networks Differ On Digital*, L.A. TIMES, Apr. 3, 1998, at D4.

on "standards for a device that will allow TV sets to receive a high-definition picture."<sup>5</sup> The Commission had stated that it wants the digital standards debate to focus on consumers,<sup>6</sup> but at the same time, it has unrealistically urged the industry for an aggressive timetable for completing the standard. In fact, the Commission is concerned with the content of the media that is not so sure to reach the American homes.

First, there is the equipment problem: consumer video equipment like VCRs, camcorders, DVDs, and satellite TV dishes that do not work with the new digital TV sets.<sup>7</sup> Second, even the development of the wire connecting the cable system's digital inputs to the digital TV set is not yet complete, so the consumers will not be able to receive high definition digital broadcasts at all.<sup>8</sup> In fact, the designated transmission standard cannot be received based

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<sup>5</sup> Chris McConnell & Price Colman, *FCC Tackles Digital Must-Carry*, BROADCASTING & CABLE, July 13, 1998, at 8.

<sup>6</sup> *Must Carry*, BROADCAST ENGINEERING, Sept. 17, 1998.

<sup>7</sup> *Transition to HDTV: Hearing Before the Senate Comm. on Commerce, Science and Transp.*, 110 Cong. (1998) (statement of John McCain, Senator).

<sup>8</sup> *Id.*

on currently available technology.<sup>9</sup> It is unclear, therefore, why new and different standards should be imposed if the picture that the consumers will get on their expensive DTV sets will be "no different than what they would have gotten on their old TV set."<sup>10</sup>

These technical problems certainly present significant obstacles to the success of the new digital technology and are quite worthy of being addressed by the Commission before it focuses exclusively on the content of the new media. If the Commission does not choose to address these technical difficulties, it should, at least, not strive to slow the future development and implementation of the new digital technology by the imposition of the new mandatory standards.

#### **CONCLUSION**

While it is quite clear that the digital franchise will be "infinitely more flexible and more valuable than its analog counterpart,"<sup>11</sup> this alone does not justify

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<sup>9</sup> *Sinclair Files Petition With the FCC Modification To Digital Television Rules Urged*, PR NEWSWIRE, Oct. 11, 1999, at 3550.

<sup>10</sup> *Id.*

<sup>11</sup> David Hatch, *Wiley: Take it Easy on New Digital Rules*, ELECTRONIC MEDIA, July 21, 1997, at 59.

imposition of the standards by the Commission that would not resolve the significant technical, programming and economic problems facing the broadcasters' transition to digital, but will only burden them with more rules of the kind with which they already comply. The Commission should be wary of the negative effect of these additional duplicative rules on the development and implementation of digital technology. Perhaps, the Commission should continue its support of such industry initiatives as those of the Advanced Television Systems Committee (ATSC).<sup>12</sup> American public and development of standards for digital television are certain to benefit from the ATSC's efforts to "develop[] digital television implementation strategies and [to] create[] a certification program for television sets, computers, and other consumer video devices."<sup>13</sup>

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<sup>12</sup> *Bitstream Joins Advanced Television Systems Committee; Bitstream Will Support the Organization's Mission To Enhance the Functionality of the Digital Television Standard*, BUSINESS WIRE, July 13, 1999, at 1238.

<sup>13</sup> *Id.*

**RECEIVED**

**MAR 23 2000**

**FCC MAIL ROOM**

To: Federal Communications Commission (FCC)

From: Valorri Jones

CC: Professor Glenn H. Reynolds

Date: March 16, 2000

Re: Comments on Public Interest Obligations of Television Broadcast Licensees

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### **INTRODUCTION AND BACKGROUND**

In the early 1990's, the FCC began to take steps away from an analog broadcasting systems to a fully digital system. The Commission adopted rules that required stations to build new digital facilities. The FCC gave broadcasters a timeline based on the size of each market and required that the top four commercial networks in the top ten markets have digital facilities constructed prior to May 1, 1999. The FCC gave all other stations until May 1, 2002. Currently most stations are required to simulcast in both analog and digital formats. The concern that consumers will not invest in digital television is a valid one.

I wish to respond to your recent notice of proposed rulemaking on how broadcasters can best serve the public interest as they transition to digital transmission technology. I have read the "The Gore Commission Report on Public Interest Obligations of Digital Broadcasters," and similar reports on this topic. I am aware that the FCC is in need of comments and proposals on how to best serve the public interest.

The transition from analog to digital broadcasting raises several concerns and questions.

1) What standards will govern digital television, and who will determine them? 2) More specifically, what reasons can the FCC and/or digital broadcasters give the public as to how

digital communication will better serve them than analog? 3) What are the negative consequences (expected or unexpected) to changing to digital technology?

**WHAT STANDARDS WILL GOVERN DIGITAL TELEVISION, AND WHO WILL DETERMINE THEM?**

Currently public concern with television is chiefly centered around censorship. Government control over what viewers will and will not see on television has been the subject of much controversy. Too much government control in this new era of communication could be counterproductive to its potential benefits. I agree with the Gore report that the National Association of Broadcasters (NAB) should determine the standards for digital technology and the transition to digital technology. As I initially experienced in trying to obtain knowledge on this subject, it would be taxing on the public to determine these standards because of the difficulty in understanding the subject matter. The NAB is probably the expert in this field and is undoubtedly the most qualified group to set such standards for this new form of communication.

However, I am aware that up to 400 broadcasters do not belong to the NAB which raises concerns about how these companies will be affected by standards drafted by the NAB. Accommodations must be made for these broadcasters, especially if they are forced to compete with other digital television broadcasters. These broadcasters should have some voice in creating the standards by which they will ultimately be governed. I suggest the NAB invite representatives from those companies that are not members to join in this decision making process. Full support from all broadcasters in the standard

setting for digital television could foster a positive public interest for digital television. This support could also minimize government interference in the process.

## **HOW CAN DIGITAL COMMUNICATIONS BETTER SERVE THE PUBLIC THAN ANALOG?**

Currently broadcast stations have several public interest obligations. They must provide service to local needs, or provide programming that will better serve their communities. Also the Children's Television Act of 1990 requires that broadcasters establish children's educational programming for a minimum number of hours. Political broadcasting is another obligation that serves the public interest. Broadcasters are required to provide access to political candidates and their opponents for political debates. Closed captioning serves the blind or those individuals visually impaired, and disaster warnings help those residing in areas that could be hit by storms. Furthermore, the FCC requires that broadcasters provide equal employment opportunities to applicants and employees.

With such current public interest obligations in place, the public should at the very least be afforded the opportunity to receive such benefits from digital programming. Thus, digital television should offer more benefits than what the public is already receiving from analog television. Offering more channels is insufficient. Those individuals living in certain local, urban and mountain areas should benefit more from such a costly transition. If low power televisions that typically provide for these areas are unable to switch to digital programming, then those living in such areas gain nothing. If

digital television becomes the accepted form of broadcasting, low power televisions would be forced into an unfair competition with digital television. Also, this competition could cause an economic burden of attempting to switch to digital programming, thus forcing their communities to do the same.

Digital programming offers multiple programming, datacasting, and other services, yet it is still unclear what all of these services mean to the public. Internet access to this information is a start, but the public needs to understand what digital programming is exactly. Public opinion polls could give broadcasters the necessary insight into the public mind on this issue. Television advertising could help, as would major and local newspapers advertisements. The Advisory Committee's suggestion that digital broadcasters disclose their public interest programming and activities is also a sufficient way to increase public knowledge about digital television and what it has to offer.

### **WHAT ARE THE NEGATIVE CONSEQUENCES TO SWITCHING TO DIGITAL TECHNOLOGY?**

Of all the information I have read on the subject, I have been unable to find negative information that would impact the public. I have learned much about how digital technology could negatively affect local broadcasters and low power television; however, I am still unclear as to what the public concern should be over this technology. Public concerns over such mediums tend to center-around expenses and what their children could be exposed to.

The first of these concerns is expenses. Will digital technology simply drain the public's wallet? As it stands now, the majority of Americans have cable television. In some areas having a television that was not "cable ready" is often useless to individuals. Thus, those persons are forced to purchase a particular type of television, and forced to pay connection fees, and the monthly service fees for cable. Digital television prices range from \$5,000 to \$16,000. Cost with added taxes on receiving digital technology plays a major concern. Most Americans have not forgotten how just a few years ago the FCC imposed a new tax on all communication services (telephone, cell, phones, pagers, etc.). Therefore, digital television as it stands is not affordable for the average working class American. This problem would prevent the public from spending such a vast amount of money on a digital system; thus making it impossible for them to receive the potential benefits that digital television may have to offer.

Financial concerns probably are less important than the concern for America's children. The debate over what television currently exposes to children is endless. The current standards governing children's programming is satisfactory for analog television. However, it is not clear that these standards will be sufficient for digital television. The same concerns will likely bleed into digital programming. The Children's Television Act of 1990 requires that broadcasters establish a minimum number of hours to children's educational programming. Since digital television offers more channels than does analog, it should be required to offer more hours to children's programming. However, even if the digital television dedicates more hours to programs for adolescents, other programs children could be exposed to presents an entirely different problem.

Given the number of new channels offered by digital television, children are more likely to be exposed to nudity, sex, and violence. The violence that we see everyday in the media reveals that children are getting mixed messages from different mediums. Some are receiving it from their peers, families, and even in school. But it goes without argument that television presents probably the most significant source of these problems. It is important at this early stage that digital broadcasters begin to put procedures in place to avoid these problems. They should offer policy creating parental control measures to combat some of these issues. Therefore, I agree that a public file should contain information on what programming has closed captioning and video description. This file could become a significant source for those parents concerned about bringing digital television into their homes.

### **CONCLUSION**

The ultimate dilemma for the FCC is serving the public. The actual transition from analog to digital communications technologically has never been an issue. The FCC has done an excellent job at attempting to make this transition a smooth one for most broadcasters, especially the major companies. However, broadcasters acted somewhat prematurely in deciding on making the change without thinking about public reaction to it. With present public interest obligations in place, broadcasters should have been more alert to public needs concerning digital programming. Offering the same incentives as analog televisions simply will not suffice as a legitimate reason why the public should invest in digital television. It must offer more benefits than does analog television.

People with disabilities should be made to feel that digital programming could make their already challenging lives easier. Parents of adolescent children should not be concerned that digital programming will contribute to the existing violence and drug use among their children. Also, broadcasters should find ways to off set the economic burden of purchasing digital television for homes. Digital television could prove to be one of the greatest technological advances known to America. However, the FCC must find ways to serve the public's interest as well.

### **REFERENCES**

- 1) <http://www.digitaltelevision.com/law1198p.shtml>
- 2) <http://www.digitaltelevision.com/law199p.shtml>

**To:** Magalie Roman Salas, Secretary-FCC

**RECEIVED**

**From:** Amanda Renea Cox

**MAR 23 2000**

**CC:** Professor Glenn H. Reynolds

**FCC MAIL ROOM**

**Date:** 3-10-00

**Re:** Comments on Proposed Regulations Concerning Public Interest Obligations of  
Television Broadcast Licensees.

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Dear Secretary Salas,

In response to the FCC's request for public comments, 65 Fed. Reg. 4211, [MM Docket No. 99-360; FCC 99-390] I would like to express my views as a law student, who has always been and will continue to be an American affected by television and the power of the media. As I understand it, the FCC would like comments on how broadcasters can best serve the public interest as they change to digital transmission technology. Several issues within the notice concerned me a great deal...specifically the disclosure obligations of broadcasters, how broadcasters can utilize the Internet to be more responsive to the needs of the public, and enhancing political discourse.

Introduction and Background

It is evident that the transition to digital television will create major changes and numerous new issues that will have to be agreed upon in order to ensure that broadcasters meet their goal of serving the public. Since it has been required by statute that broadcasters serve the public interest, convenience, and necessity, it is only logical to ensure that they continue to do so whatever their means of transmission may be. However, it is also easy to recognize that as society and technology continually change, it

becomes more difficult to decide how broadcasters can best carry out this statutory mandate.

As an analogy, I ask you to consider for a moment, the Constitution of the United States. There are those among us who believe that it should be interpreted just as it was written, while others like myself, believe that we must interpret it differently as times and circumstances change. Situations evolve daily which our forefathers could never have predicted nor foreseen. Therefore, it seems only logical that we must read the intentions and meanings behind the constitution in a way that will allow us to apply it to today's changing issues, as we deem appropriate. I see the transition to DTV in much the same way. This is a change that will have different effects and repercussions and must be treated as such. Simply allowing licensees to continue following the current public interest rules without modification will fall far short of meeting the public interest goals that broadcasters are expected to meet.

#### Disclosure Obligations Should be Stricter

Guidelines and requirements in our daily lives are set for a reason. While many individuals may consider themselves disciplined and task-oriented, many also will admit that without deadlines, it is quite likely, that at times, a project would not be completed. Likewise, it seems only logical that by requiring broadcasters to disclose information regarding public interest programming and activities, the broadcasters would be more inclined to meet what is expected of them. Requiring broadcasters to disclose such information on a quarterly basis does not seem to be an overly burdensome requirement. It seems only fair that the citizens who "own the air-ways" should have the right to know

what broadcasters in their areas are doing. Additionally, in a period of transition, from analog to digital, it makes sense that not only the FCC, but citizens as well, should have the ability to monitor broadcasters' actions and the programming provided. Tightening the rules a bit to ensure that broadcasters are "living up" to their end of the deal is far from unfair, especially considering the major advances that they will be obtaining from DTV.

How Broadcasters Can Use the Internet to be More Responsive to Public Needs

In addition to heightened disclosure obligations, consider this for a moment... wouldn't it be wonderful to simply log on to the Internet, and make suggestions to the broadcasters in your area about the types of programming you wished to see, or the local events you wished to see covered? Wouldn't it be even more amazing to think that those stations would actually take such comments and suggestions into consideration? How could broadcasters serve the community better than to listen directly to the comments and suggestions made by its community's citizens? A study conducted by the Media Access Project and the Benton Foundation found that "stations devoted only one third of one percent of their air-time to local public affairs." ([www.current.org/tech/tech807g.html](http://www.current.org/tech/tech807g.html)) If that is truly the case, are those stations actually donating a significant portion of their time to the community and public interest? Wouldn't it be interesting to find out exactly how those stations are meeting the needs of the public interest if it is clear that they are not doing so by airing local public affairs? By having stations disclose how they meet such requirements over the Internet, no question would remain. Citizens would have access to the information, and in addition, could make suggestions concerning