

**A. The Interactive Capabilities of DTV Raise a Host of Potential Unfair and Excessive Advertising Practices Directed at Children.**

Children are quickly becoming one of the most sought after demographics by marketers.<sup>41</sup>

This is due in large part to the unprecedented amount of spending children under 12 now command or influence.<sup>42</sup> Sources place this figure as high as \$500 billion. Russakof, *supra* note 41. The recent increase in marketers' desires to target children coincides with the advent of a new interactive digital marketing paradigm.<sup>43</sup> The nascent advertising and marketing capabilities of digital technology have already catalyzed a marketing revolution in the online world. Montgomery, *supra* note 43, at 638-645. Although the key trends of this new scheme are most prevalent in the online environment, they are quickly becoming "a basic part of the design for emerging technologies such as digital television." *Id.* at 639. The central concepts of the digital interactive marketing paradigm most relevant to DTV, and most problematic for children, are discussed below.

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request that the FCC promptly begin a proceeding to extend the principles articulated in this proceeding to cable and DBS operators.

<sup>41</sup> Dale Russakoff, *Marketers Following Youth Trends to the Bank*, WASH. POST, Apr. 19, 1999, at A01. Television advertising for children now exceeds \$800 million a year. *Id.*

<sup>42</sup> This is no accident. Increasingly, companies are employing child psychologists and other researchers to persuade children to purchase products or to nag their parents to buy them products. Kim Campbell & Kent Davis-Packard, *How Ads Get Kids to Say, I Want It!*, CHRISTIAN SCI. MON., Sept. 18, 2000, at 1. Total advertising and marketing dollars aimed at children now exceeds \$12 billion a year. Patricia Winters Lauro, *Coaxing the Smile That Sells; BabyWranglers in Demand in Marketing for Children*, NEW YORK TIMES, Nov. 1, 1999, at C1.

<sup>43</sup> Kathryn C. Montgomery, *Digital Kids: The New On-Line Children's Consumer Culture*, in HANDBOOK OF CHILDREN IN THE MEDIA 635, 637 (Dorothy G. Singer & Jerome L. Singer ed., 2000).

## 1. Interactive advertisements.

The combination of the Internet and TV is revolutionizing the advertising industry. One emerging practice is the enhancement of commercials with an interactive component prompting a viewer to click on the ad for more information. For instance, marketers have developed an *Acura* commercial spot that allows viewers to access a website describing the car in more detail.<sup>44</sup>

Another example is Respond TV's partnership with a website to offer the delivery of free samples to users who request more information from a commercial by pointing and clicking with a remote control.<sup>45</sup> One company, WorldGate, is developing interactive technology to allow any television commercial to be hyperlinked to any website.<sup>46</sup> Marketers are also experimenting with interactive commercials that allow viewers to purchase the item displayed in the ad.<sup>47</sup>

Although the above examples are targeted to adults, some marketers are already beginning to experiment with interactive DTV advertisements for products aimed at children. For example, a New York-based ad agency, Ammirati Puris Lintas, has launched an interactive ad for "Lego Mindstorms." Hood, *supra* note 47. Here, children watching the ad with Microsoft's WebTV Network Plus service observe an "I" in the top right hand corner indicating

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<sup>44</sup> Dave Guilford, *Acura sees rich value on @Home's network*, ADVERTISING AGE, Aug. 30, 1999, at 30.

<sup>45</sup> Ryan Naraine, *Free Samples, Via Your Television Set Top Box*, INTERNETNEWS (Nov. 29, 2000) at [http://www.internetnews.com/IAR/article/0,,12\\_522321,00.html](http://www.internetnews.com/IAR/article/0,,12_522321,00.html).

<sup>46</sup> Worldgate Communications, Inc., at <http://www.wgate.com/company/ir/index.html> (last visited Dec. 14, 2000).

<sup>47</sup> Duncan Hood, *New TV ads let viewers buy with a click*, KIDSCREEN, Dec. 1999, at 27; Robin Berger, *Interactive Horizons: Networks ponder enhanced TV*, ELECTRONIC MEDIA, May 8, 2000, at 14; *Interactive TV to Encourage Impulse Buying*, MARKET WEEK, Jan. 13, 2000, at 20.

that the ad is interactive. By clicking on the ad, the child is instantly transported to Lego's online store. *Id.* In another interactive advertisement designed by RespondTV, viewers watching a Coca-Cola commercial including the "Polar Bear Twins" can click on the ad to receive a free stuffed animal.<sup>48</sup>

As these examples suggest, it is not hard to imagine marketers combining TV with the Internet to create even more sophisticated interactive advertisements capturing children's attention. Many commercial websites are in fact "designed to encourage children to stay for long periods of time." Montgomery, *supra* note 43, at 641. For example, one of the most prevalent strategies to induce children to click on an advertised site and remain there indefinitely is to provide "games that kids can play that involve the products." *Id.* at 640-41. This strategy is easily compatible with interactive television. For instance, a Barbie commercial could invite a child to click on the ad to customize her own Barbie doll. The site could then "give[] [the girl] the opportunity to design [her] own personalized Barbie, choosing from an inventory of physical features, clothing styles, and personality traits." *Id.* (describing techniques used at [www.barbie.com](http://www.barbie.com) to persuade kids to click on and remain at the site).

## **2. Interactive product placements in children's programming.**

Interactive advertisements are even more problematic for children considering the potential for interactive product placements. Product placement is an "increasingly common practice in television [that] is another central component of the digital marketing paradigm." Montgomery, *supra* note 43, at 643. Many advertisers now perceive the "familiar thirty second

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<sup>48</sup> GameWeek.com, at [http://www.gameweek.com//todays\\_news/index.asp#CBBD3101](http://www.gameweek.com//todays_news/index.asp#CBBD3101) (last visited Nov. 21, 2000).

television commercial ...[as]...‘interruption marketing’ no longer appropriate or effective in the digital age.” *Id.* at 640 (citations omitted).<sup>49</sup> Indeed, there has been a disturbing trend in the rise of product placements in television programs over the last few years.<sup>50</sup> For instance, in the program *Survivor*, CBS arranged various placement deals resulting in the castaways prominently drinking *Bud lite*, drying themselves with towels with the *Target* logo, and making phone calls with *Ericsson* mobile phones. Pope & Collins, *supra* note 50.

Capitalizing on the interactive sales potential of the Internet, numerous TV programs are beginning to incorporate websites into their product placement advertising models. *See* Montgomery, *supra* note 43, at 643. For instance, AsSeenIn.com recently cut a deal with Viacom that “give[s] new meaning to the phrase product placement.”<sup>51</sup> In the first run of this arrangement, fans of *Beverly Hills 90210* visited AsSeenIn.com to purchase \$530,000 worth of items, such as furniture and set props showcased in the program and made available on the site. Kerschbaumer, *supra* note 51.

Plans are already in the works for the next logical step for DTV: allowing viewers to

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<sup>49</sup> Also, in light of the ability of digital video recorders to fast forward through commercials, more advertisers are beginning to embed sponsor brands within the programming content itself. *See* Stuart Elliott, *Advertising: TiVo teams up with the Omnicom Group to tell the world about digital video recorders*, N.Y. TIMES, Oct. 13, 2000, at C4.

<sup>50</sup> Kyle Pope & Scott Collins, *The New Killer App: Network TV’s Surprisingly Crafty Plan to Win the Digital War*, INSIDE, at [http://www.inside.com/jcs/Story?article\\_id=16485&pod\\_id=7&user\\_type=1](http://www.inside.com/jcs/Story?article_id=16485&pod_id=7&user_type=1) (discussing the product placement of Coca-Cola in the program *Young Americans*, Bud Lite and other products in *Survivor*, and cameo appearances of AT&T in *Who Wants to Be a Millionaire*); *see also* Shelly Branch, *Product Plugs -- ‘M’M M’M Good’*, WALL ST. J., Nov. 14, 2000, at B1 (discussing ABC’s *The View* co-host judging the audiences’ soup-sipping techniques for Campbell’s soup).

<sup>51</sup> Ken Kerschbaumer, *For Sale: Show Props*, BROADCASTING & CABLE, Oct. 7, 2000, available at <http://www.broadcastingcable.com/search/article.asp?articleID=692247910>.

directly purchase products embedded into the program itself.<sup>52</sup> ABC, for instance, is in talks with eBay, an online auction site, to develop a branded TV show that would enable viewers to buy the same types of products available on eBay's site.<sup>53</sup> Advertisers are banking on TV's emotive aspects to stimulate sales through this new interactive "t-commerce" application.<sup>54</sup> Marketers are salivating at the opportunity to use "[n]arrative strands' within a program [to] lead viewers to a 'buying opportunity' and then return them to the story after the purchase." Montgomery, *supra* note 43, at 643 (citations omitted).

Leading a child to a "buying opportunity" during a children's program is especially troubling. Marketers could easily manipulate children to buy certain products at an emotional moment in the program. For example, "when the World Cup finals finish imagine the potential of an on screen advert selling the official ball of the tournament . . . [i]t could be bought at the touch of a button."<sup>55</sup> Hypothetical examples for children's interactive programming are easy to imagine. For instance, DTV creates the potential for a child to click on the doll a TV character is

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<sup>52</sup> See Dennis Hunt, *What You See is What You Can Get on the Net, Shows Test Links To Their Viewers With On-Line Sales*, USA TODAY, June 29, 2000, at 3D.

<sup>53</sup> Keith L. Alexander, *Going Once: Ebay In Talks About TV Show - Web Auction Site Ponders Broadcast Version of Self, Possibly on Disney's ABC*, USA TODAY, Oct. 18, 2000, at 01B; see also Richard Tedesco, *CBS Primes for WebTV*, BROADCASTING AND CABLE, Dec. 4, 2000 at 64.

<sup>54</sup> Marketers are incredibly excited about using DTV's interactive capabilities to "stimulate e-commerce at the moment of emotion." See Saul Hansell, *Clicking Outside the Box*, N.Y. TIMES, Sept. 20, 2000 at H1 (quoting Henry Yuan, chief executive of TV Guide Gemstar, which is developing several interactive advertising systems, "Television is about emotion . . . You see a cruise ship sailing off into a beautiful sunset, and you are moved. Now you can push a button and book the cruise before the next commercial comes on.").

<sup>55</sup> Martin Sims, *From Aiming too High to Aiming Too Low*, INTERMEDIA, June 1999, 5.

playing with and purchase the toy from a connected website or online service. Even more exploitive of children would be a one-to-one direct sale of “impulse” products, *e.g.*, pizza,<sup>56</sup> or services, such as video game samples, *e.g.*, the latest version of *Pokemon* for the fee of \$10 an hour.<sup>57</sup>

### 3. Collection of personal information and targeted ads.

As technology is changing the television viewing experience and the nature of television advertising, it is also creating more opportunity for the “data mining” or collection of users’ personal information and viewing behavior.<sup>58</sup> Using this information, broadcasters and advertisers will be able to target consumers with tailor made ads. *See* Horn, *supra* note 58. Interactive commercials, such as the ones described above, will be able to employ techniques similar to those used by websites to collect detailed personal data from viewers. Recent interactive ads in the New York market, for example, collected personal information from viewers purchasing a DVD advertised in a Disney commercial and from viewers entering a contest promoted during an ad for Kay Jewelers. Hansell, *supra* note 54.

In some instances, broadcasters would not need to ask any questions to create a customer profile. For example, the DTV set top box could be assigned a number that allows the

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<sup>56</sup> *See* Robin Berger, *B3TV pays for Slice of e-pie*, ELECTRONIC MEDIA, Aug. 30, 1999, 14.

<sup>57</sup> Such practices exploit a child’s visceral “need” for instant gratification. *See* Mark Cooper, *A Consumer Perspective on Economic, Social and Public Policy Issues in the Transition to Digital Television*, Consumer Federation of America (Oct. 29, 1999), available at <http://www.bettertv.org/consumerperspective.htm> (discussing, *inter alia*, the ability of interactive DTV exploiting “impulse” oriented advertising at the expense of the consumer). Impulse sales also take advantage of a child’s lack of understanding of the value of money.

<sup>58</sup> *See* Patricia Horn, *Interactive TV Making Strides; Ability to Gather Data Spurs Privacy Worries*, ARIZ. REP., Jan. 24, 2000, at D3.

broadcaster, or a third party, “to determine what is watched on the set, when, and for how long.” Horn, *supra* note 58. The technology also allows the broadcaster to “gather data on how long [a viewer] spend[s] on which show, whether they link from the TV show to a Web Site, and even what they click on at the site.” *Id.* All this information can be used to create valuable customer profiles for targeted ads. According to some analysts, the combination of collecting information and using it to target ads to viewers presents a money making opportunity akin to “‘direct mail on steroids,’ where advertising is matched so precisely to the profiles of likely purchasers that response rates routinely exceed 20 percent.”<sup>59</sup>

The collection of personal information and its use to help target television advertisements is particularly problematic with respect to children. Indeed, in response to similar practices on the Internet, Congress passed the Children’s Online Privacy Protection Act (“COPPA”). Congress enacted COPPA largely in response to the documentation of “data collection practices in children’s websites, including games, surveys and prizes, and the use of ‘product spokescharacters’ to elicit information” from children. Montgomery, *supra* note 43, at 639. These unfair practices would be even more harmful to children when combined with the inherently persuasive power of television.

In sum, while all potential abuses cannot be predicted, it is possible to identify trends in digital marketing. As discussed in the next section, many of these trends raise problems under the FCC’s existing advertising safeguards. The Commission should act now to clarify the types of advertising practices that are prohibited under current policies, and if necessary, adopt new

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<sup>59</sup> See Bob Van Orden, *Top Five Interactive Digital-TV Applications*, MULTICHANNEL NEWS, June 21, 1999, at 143.

safeguards to “eliminate practices which take advantage of the immaturity of children.” *1974 Policy Statement*, 50 FCC Rcd at 18.

**B. The Commission Should Clarify that Direct Linking During Children’s Programming to Commercial Websites or Online Services Violates the Commission’s Children’s Advertising Limits and Policies.**

The Commission asks how it should “interpret with respect to DTV broadcasters the policies set forth in the *1974 Policy Statement*.” *NPRM* at ¶ 30. In the *1974 Policy Statement*, the Commission explained:

It is a matter of common understanding that, because of their youth and inexperience, children are far more trusting and vulnerable to commercial ‘pitches’ than adults. There is, in addition, evidence that very young children cannot distinguish conceptually between programming and advertising; they do not understand that the purpose of a commercial is to sell a products.

*1974 Policy Statement* at 11(citations omitted). As a result, the *1974 Policy Statement* required broadcast licensees to provide clear separation between program content and commercial matter, and prohibited host-selling, product placements, and program-length commercials.<sup>60</sup> For the same reasons, Congress directed the FCC to limit the amount of advertising on children’s programs. *CTA Senate Report* at 1. As explained below, the Commission should clarify that direct linking to a commercial website or online service from a children’s program, or commercials aired during such programming, violates these longstanding principles.

**1. Direct linking from a children’s program to a commercial website violates the Commission’s Program-Commercial Separation policy.**

The policy that broadcasters should “maintain an adequate separation between

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<sup>60</sup> For purposes of the commercial safeguards and limits, *children’s programming* “refers to programming produced and broadcast primarily for an audience of children 12 years old and younger.” 47 C.F.R. § 73.671 note 2 (2000).

programming and advertising on programs designed for children” is based on the conclusion “that many children do not have the sophistication or experience needed to understand that advertising is not just another form of informational programming.” *1974 Policy Statement* at 14-15.<sup>61</sup> Studies continue to demonstrate that young children “lack the perceptual capabilities to consistently discriminate programs from commercial content.”<sup>62</sup>

Recent studies show that children have similar difficulty discerning the persuasive intent of commercial websites as well. For instance, 74% of the children sampled in one survey believed that the purpose of the commercial sites viewed was to entertain.<sup>63</sup> A more recent study examining commercial websites targeting children, echoed these findings concluding that online advertising and entertainment are practically indistinguishable.<sup>64</sup>

As discussed above, the interactive capabilities of DTV enable advertisers to create seamless transitions from a program to an interactive advertisement hosted on a commercial website or online service. Picture a child watching a program on Disney’s Magic Kingdom. During the program, an interactive advertisement pops up instructing her to click on an icon

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<sup>61</sup> See also *1991 Children’s TV Order*, 6 FCC Rcd 2111, 2127 n. 147 (1991) (“The separation policy is an attempt to aid children in distinguishing advertising material from program material. It requires that broadcasters separate the two types of content by use of special measure such as bumpers.”)

<sup>62</sup> H.R. REP. NO. 101-385, at 6 (1989) (“*CTA House Report*”); see also Kunkel, *Children and Television Advertising*, *supra* note 34, at 375.

<sup>63</sup> Lucy L. Henke, *Children, Advertising, and the Internet: An Exploratory Study*, in *ADVERTISING AND THE WORLD WIDE WEB* 73, 78-79 (David W. Schumann & Esther Thorsen eds., 1999).

<sup>64</sup> Erin Marie Fitzgerald, *Advertising to Children on the Internet: Manipulation, Commercialization and the Legacy of Children’s Television Advertising* (2000) (unpublished M.A. thesis, University of Texas at Austin) (on file with author).

instantly transporting her to the branded environment of the Disney Magic Kingdom website laden with ads for Disney products. Because most children have difficulty identifying the advertising aspects of commercial websites, especially one integrated into a sister TV program, it is highly likely that the child will believe that the website is an extension of the program. In this seamless transition, it would be very difficult for a child to discern that she is now being persuaded to buy a product. Thus, *any* direct link to a commercial website or online service from a children's program would violate the Commission's longstanding separations policy.

**2. Using a direct link from a children's program character to a commercial website to promote or sell a product violates the Commission's Host-Selling policy.**

Host-selling is a "special application" of the program-separation policy that prohibits the use of program characters to promote products. *1991 Children's TV Order*, 6 FCC Rcd at 2127, note 147. Host-selling takes particular advantage of "the trust which children place in program characters." *Id.* The Commission has broadly interpreted host-selling to cover "any character endorsement - not just vocal appeals - that has the effect of confusing a child viewer from distinguishing between program and non-program material." *WHYY, Inc.*, 7 FCC Rcd 7123 (1992). For example, the Commission has gone so far as to find that "advertisements featuring the same type of animation that is regularly featured in the accompanying program constitutes host-selling." *Id.*

Considering the symbiotic relationship between programs and their corresponding websites, it is hardly difficult to imagine situations where direct linking from a children's program would violate the Commission's host-selling policy. For instance, a child watching *Sideline Heroes of the NFL* (targeted to age group 7-11) could be prompted to click on a popular

football star to see what shoes he wears. Upon clicking on the program character, the child is instantly transported to the star's webpage on the Nike website where the child is bombarded with ads for the shoes.

Practices like the preceding example undeniably use a "program character[]" to promote a product[]" and "interweave the program and the commercial, exacerbating the difficulty between distinguishing between the two." *1974 Policy Statement*, 50 FCC 2d at 16. Indeed, the host-selling in the case of direct linking would be more egregious than traditional host-selling because the program character could be used to actually sell the product to the child on the spot. This practice is undeniably inconsistent with a "licensee['s] obligation to operate in the public interest" and should be prohibited. *Id.*

**3. Because product placements are prohibited in children's programming, direct links from a product to a commercial website are proscribed as well.**

The *1974 Policy Statement* also identified "the prominent display of brand name products on a show's set" as an unfair advertising practice. *Id.* at 8. The Commission articulated that broadcasters should not "engage in practices in the body of the program itself which promote products in such a way that they may constitute advertising." *Id.* at 17. Product placement in children's programming, the FCC continued, is contrary to a licensee's public interest responsibilities to the child audience, as well as its obligations under section 317 of the Communications Act. *Id.* at 17-18.<sup>65</sup>

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<sup>65</sup> Section 317 requires that all advertisements broadcast by a licensee clearly indicate that they are paid for and by whom. 47 U.S.C. § 317(a); 47 C.F.R. § 73.1212 (2000). Assuming a broadcaster receives some form of consideration for placing or identifying the service or product in the program, a broadcaster is required to disclose the sponsorship if the identification of the product in the program goes "beyond [what is] reasonably related to the use of such service or

Product placements are unacceptable in children's programs because "most young children do not understand that there is a 'commercial' incentive for the use of these products . . . any material which constitutes advertising should be confined to identifiable commercial segments which are set off in some clear manner from the entertainment portion of the program." *Id.* at 18; *see also*, 1991 Children's TV Order, 6 FCC Rcd at 2118. An example of a product placement would be if an airline supplies free tickets to a program's cast and during the program the "cameraman . . . takes an extra closeup of the identification insignia of the airline." *Applicability of Sponsorship Identification Rules*, 40 FCC 2d 141, 148 (1963). In this case, "an announcement is required because the closeup is not reasonably related to the use of the service on the program." *Id.*

The act of linking a product from a program to a commercial site where the product is advertised or sold goes "beyond an identification which is reasonably related to the use" of the product in the program. *See* 47 C.F.R. 73.1212 (2000). In other words, a commercial link from a product necessarily indicates that the product is an advertisement because the linking is a commercial purpose that has nothing to do with the role of the product in the program. For instance, the linking of an airline insignia from a program to the airline's commercial website, similar to extra camera closeups, is not reasonably related to the use of the airline in the program. The purpose of the link is to advertise the airline or perhaps even sell a ticket directly to the viewer. Thus, with respect to children's programming, the Commission should clarify that a link from a product aired during a program to a commercial website or online service indicates that

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property on the broadcast." 47 U.S.C. § 317(a)(1). *See also* National Association for Better Broadcasting v. FCC, 830 F.2d 270, 276-277 (D.C. Cir. 1987) (discussing application of sponsorship identification rule).

the product is an advertisement and therefore violates the FCC's product placement rules for children's programming.

**4. A direct link during a children's program to a commercial website promoting a product associated with the program violates the Commission's Program-Length Commercial policy.**

The program-length commercial policy addresses the "fundamental regulatory concern, that children who already have difficulty enough distinguishing program content from unrelated commercial matter, not be all the more confused by a show that weaves program content and commercial matter." *1991 Children's TV Order*, 6 FCC Rcd at 2118. Program-length commercials are defined as a "program associated with a product in which commercials for that product are aired." *Id.* at 2117. Because of the seriousness of this violation, the Commission has strictly applied its program-length commercial policy. *See, e.g., WPIX, Inc.*, 14 FCC Rcd 9077 (1999). Any appearance of a program character in a commercial aired during the program itself, no matter how short the appearance, is considered a violation. *Id.* at 9079-9080.

The Commission should apply an equally strict interpretation of program-length commercials to commercial links posted during children's programming. Any direct link from a children's program to a commercial website advertising any associated product would therefore violate the prohibition on program-length commercials. For example, imagine a child watching a popular kids program such as Pokemon and the screen prompts him to click on the character Picachu. He is then instantly transported to an interactive website advertising Picachu dolls and other Pokemon products. This would violate the policy. Similarly, if a commercial for a fast food chain is aired during Pokemon and the ad prompts a child to instantly visit its website where Pokemon "happy meals" are advertised, the program-length commercial policy would be violated

as well.<sup>66</sup>

**5. Direct linking from a commercial aired during a children's program to a commercial website would nullify the CTA's advertising limits.**

In addition to prohibiting the above advertising practices, the *1974 Policy Statement* concluded that "particular care should be taken to insure that [children] are not exposed to an excessive amount of advertising," and stated its expectation that licensees would comply with the NAB Guidelines. *1974 Policy Statement*, 50 FCC 2d at 11. Subsequently, after the NAB Guidelines were abandoned, Congress enacted the advertising limit provisions of the CTA to "protect children from overcommercialization of programming." *CTA Senate Report* at 1. The CTA directed the Commission to adopt regulations limiting the "duration of advertising in children's television programming to not more than 10.5 minutes per hour on the weekend and not more than 12 minutes per hour on weekdays." 47 U.S.C. § 303a; 47 C.F.R. § 73.670 (2000).

Direct linking from a commercial aired during children's programming to a commercial website or online service would render the existing commercial limits meaningless. As shown above, many commercial websites are designed to encourage children to remain on the site for as long as possible. Unlike conventional TV, the Internet does not restrict ad length. With the click of a mouse, a thirty second commercial can easily turn into a thirty minute excursion on the advertised product's website. Indeed, direct linking enables each commercial to be an infinite advertisement. Once the child leaves the program via a commercial's direct link, she could

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<sup>66</sup> See *Act III Broadcasting License Corp.*, 10 FCC Rcd 4957 (1995), *aff'd*, DA 97-2534 (rel. Dec. 4, 1997) (ad for fast food chain promoting prize trip to Disney World violated program-length commercial policy because the commercial contained a brief image of Goofy and aired during the "Goof Troop").

spend the entire length of the program or longer on the commercial website.<sup>67</sup>

In sum, because direct links from children's programs or advertisements to a commercial website or online service selling or promoting products or services would violate many of the above policies and rules, the Commission should clarify that its policies and rules prohibit such linking. *NPRM* at ¶ 32.<sup>68</sup> A straightforward prohibition of commercial direct links during children's programs would best protect children from unfair uses of this technology.<sup>69</sup> It would also be easy to administer and provide broadcasters with a clear, bright-line rule as to what commercial practices will be considered unacceptable in the digital environment before marketers become entrenched in these harmful practices.<sup>70</sup>

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<sup>67</sup> This problem is even worse with respect to children's educational and informational program. There is little benefit in E/I programming if a child can spend the whole time on a commercial website from the first moment she sees a commercial.

<sup>68</sup> CME, *et al.* urge the FCC to employ the definition of commercial web site adopted by Congress in the Children's Online Privacy Protection Act ("COPPA"). See 15 U.S.C. § 6501. Section 6501(2)(A)-(B) of COPPA defines commercial website as:

any website located on the Internet or an online service...where such website or online service is operated for commercial purposes, including... products or services for sale through that website or online service, involving [intrastate or international] commerce... but does not include any nonprofit entity that would otherwise be exempt from coverage" under 15 U.S.C. § 45.

Thus, using COPPA's definition of commercial website or online service would not interfere with interactive applications involving non-profit or educational websites.

<sup>69</sup> For example, Congress adopted a flat out proscription of 1-900 services aimed at children. 15 U.S.C. § 5711(a)(2)(C). Congress "concluded that the only way to protect children from the solicitations made by 900 service providers until they reach an age where they can evaluate these services and the sales is to prohibit noneducational 900 services aimed at children under 12 years of age and prohibit advertisements for noneducational services aimed at children under 12 years of age." S. REP. No. 102-190, at 3 (1991).

<sup>70</sup> We do not think that the Commission should attempt to "draw a distinction between websites that carry only commercial products, and websites that also offer educational

**C. The Commission must Ensure That DTV Broadcasters Do Not Collect Personal Information from Children Without Parental Consent or Use Information Collected from Children to Unfairly Target Advertising to Them.**

As discussed above, a digital broadcaster may be able to collect personal information from a child *via* a link to a website, an online service, or other IP based interactive platform. This capability poses very real threats to children's privacy. Congress enacted the Children's Online Privacy Protection Act of 1998 ("COPPA") to protect children's privacy.<sup>71</sup> Clarifying that direct links from children's programming are not allowed will minimize this threat somewhat. However, privacy concerns remain in the instance where a child uses a link from a program that is not considered a children's program. In this case, commercial websites or online services directed at children and operated by DTV licensees that collect personal information are subject to the notice and consent requirements of the COPPA and the Federal Trade Commission's implementing rules ("COPPR").<sup>72</sup>

Digital television also raises privacy concerns that may not be fully addressed by COPPA

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information related to the program." *NPRM* at ¶ 32. Such distinctions can be difficult to make and will only encourage attempts to get around the prohibition by placing a small amount of education material on a website. Employing COPPA's definition of commercial website should ensure that non-profit and educational websites are not excluded under these new rules. *See supra* note 68.

<sup>71</sup> COPPA was enacted after Congressional findings that operators of website or other online services engaged in practices that threatened the privacy of children, and that self-regulatory efforts were not enough to solve the problem. *See* H.R. REP. 105-144 (1998).

<sup>72</sup> Under COPPA and COPPR, an operator of a commercial website or online service directed to children, or who has actual knowledge that children frequent the site, are required to post a detailed privacy notice and obtain "verifiable parental consent" before collecting and/or disclosing personal information about a child. 15 U.S.C. § 6501, *et. seq.*; COPPR, 16 C.F.R. § 312.1, *et. seq.* (2000). COPPA defines personal information as anything that "permits the physical or online contacting of a specific individual." 15 U.S.C. § 6501(8)(F).

and the COPPR. DTV enables broadcasters to track children's viewing habits and assemble viewer profiles. *See* discussion *supra* Part IV.A.3. With this capability, digital broadcasters can send uniquely targeted television advertisements during children's programs.<sup>73</sup> For example, if a broadcaster knows that a child in the household likes to watch Pokemon and Digiman shows, the broadcaster could target advertisements for the latest Pokemon game or Digiman product to that household during other children's programs. This could take advantage of a child's trusting nature because a child does not understand that these uniquely targeted messages are coming from a marketer and not from a "friend."<sup>74</sup> In addition, interactive ads based on knowledge of a child's likes and dislikes may rise to the level of unfairness because children do not understand the persuasive intent of such messages. Targeted advertisements misleading children or otherwise enlisting the trust of a child through the use of data-mined information are unfair and should be prohibited.

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<sup>73</sup> *See, e.g.,* Gary Arlen, *Getting Serious About Set-Top VOD*, BROADBAND WEEK, Oct. 2000, available at [http://www.broadbandweek.com/news/0010/0010\\_opinion\\_arlen.htm](http://www.broadbandweek.com/news/0010/0010_opinion_arlen.htm) (discussing the ability of digital video records to send customized commercials based on a customer's programming habits); Elliott, *supra* note 49.

<sup>74</sup> The Children's Advertising Review Unit's ("CARU's") self regulatory guidelines for children's advertising ("Guidelines") caution advertisers that "certain presentations and techniques . . . may mislead children if used in child-directed advertising." *See* CARU's Guidelines at <http://www.bbb.org/advertising/caruguid.asp>. CARU's Guidelines require that children "always be told when they are being targeted for a sale." *Id.* Additionally, under the Guidelines, consumers must be given the opportunity to withhold consent for collecting information for marketing purposes. This suggests that broadcasters could not track children's viewing habits, if this information is being used for marketing purposes, without some sort of parental consent. This guideline is in accord with the COPPA's § 6502 (b)(1)(A)(ii) verifiable parental consent requirement.

**V. THE COMMISSION SHOULD REVISE ITS DEFINITION OF “COMMERCIAL MATTER” TO INCLUDE PROGRAM PROMOTIONS.**

The Commission also invites comment on whether it should revise its definition of “commercial matter” to include certain program promotions that do not currently contribute toward the commercial limits. *NPRM* at ¶ 34. The current definition of “commercial matter” is “air time sold for the purpose of selling a product or service.” 47 C.F.R 73.670 note 1 (2000). As the FCC correctly points out, this definition of commercial matter excludes many program interruptions, and as a result, “the amount of time devoted to actual program material is often far less than the limitation on the duration of commercial matter alone might suggest.” *NPRM* at ¶ 33. As discussed below, CME, *et al.* believe that the Commission should revise its definition of “commercial matter” to include most promotions of up-coming programs. Further, we agree with the Commission that the revised definition of commercial matter should apply to both analog and digital broadcasting. *Id.* at ¶ 34.

The Commission should first clarify that cross-promotion of programming qualifies as commercial matter for the purposes of the advertising limits. In *Superstation Inc. (WTBS(TV))*, 8 FCC Rcd 490 (1993), the Mass Media Bureau interpreted “air time sold for purposes of selling a product” to include “‘cross-promotional’ announcements for products sold by other Turner-owned companies.” The Bureau reasoned that “[t]o rule otherwise would open the door to unlimited product pitches in children’s programming.” *Id.* The potential for cross-promotion has increased considerably since the *WTBS* decision. For example, with Disney’s acquisition of ABC, ABC can air Disney program promotions and the Disney Channel can promote ABC programs. Similarly, with Viacom’s acquisition of CBS, programs on the Nickelodeon channel can be advertised on CBS. In this era of ever increasing consolidation, the Commission should

remind broadcasters that the cross-promotion of commonly owned media interests falls within the ambit of “commercial matter.”

In addition, the Commission should revise its definition of “commercial matter” to include the promotions of up-coming programs on the station itself. Presumably, promotions for a station’s up-coming programming do not fit within the definition of commercial matter because they do not involve the “sale” of time.<sup>75</sup> But whether the air time was “‘purchased’ in the traditional sense” is not the controlling issue. *Superstation Inc.*, 8 FCC Rcd at 490. In determining whether an item is commercial matter, the Commission has focused on whether the broadcaster “received consideration directly or indirectly for airing the material, and the material was used to sell a product or service.” *Mass Media Bureau Advises Commercial Television Licensees Regarding Children’s Television Commercial Limits*, 13 FCC Rcd 10265 (1998) (citing *Superstation Inc.*, 8 FCC Rcd at 490). Program promotions should fall within the scope of commercial matter because the station broadcasting the promotion receives significant consideration for airing these advertisements.<sup>76</sup> Promotions clearly benefit the station in terms of increased audiences for the promoted product - the program - thereby increasing the advertising rates for the station.

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<sup>75</sup> The Commission explains that the requirement that the airtime be sold was intended to permit writers or producers to use logos or brand names to advance creative objectives. *1991 Children’s TV Order*, 6 FCC Rcd at 2112. But that concern would not be undermined by revising the definition of commercial matter to include program promotions.

<sup>76</sup> For example, in *Petition for Reconsideration of Rulings on Auction Programs as Program-Length Commercials*, 69 FCC 2d 682, 685 (1978), the Commission found that a station program promoting the station’s own products qualified as a commercial program because the “station use[d] its air time to derive a direct or indirect consideration from the broadcast of the announcement.”

Moreover, failing to count program promotions as commercial matter leads to inconsistent results. If during a children's program, a station runs an advertisement for a movie being shown in a movie theater, it clearly counts toward the commercial limits. But the same station can run an advertisement for an up-coming movie on its station and the commercial does not count. From the perspective of avoiding excessive advertising to children, both should count toward the limits.

The FCC's ability to revise its definition of commercial matter is not restricted by the CTA nor its legislative history. *NPRM* at ¶ 34. Commercial matter is not defined in the CTA. The House and Senate Reports merely state that the definition should be "consistent" with the definition used in former Form 303-C. *CTA House Report* at 15 (1989); *CTA Senate Report* at 21(1989). If anything, including program promotions in the definition would be more consistent with the definition in former Form 303-C, which specifically included "promotional announcements by a commercial television broadcast stations for or on behalf of another commonly owned or controlled broadcast station serving the same community." *CTA Senate Report* at 21 Moreover, changing the definition to include program promotions would be consistent with Congress's overall intent of protecting children from overcommercialization of programming. *Id.* at 1.

While program promotions should be counted as a general rule toward the commercial limits, CME, *et al.* recommend exempting program promotions for core educational and informational children's programming. As discussed below in Part VI, there is ample evidence that many broadcasters are not adequately promoting E/I programming and as a result few parents are aware of such programming. The Commission can encourage broadcasters to

promote E/I programming by exempting such promotions from the ad limits. The FCC already correctly excludes PSAs from the commercial matter definition because of, *inter alia*, their value as a public service. *See 1991 Children's TV Order*, 6 FCC Rcd at 2112. Similarly, the benefits of encouraging the promotion of E/I programming outweigh the harms of exempting such promotions from the ad limits.

**VI. THE FCC SHOULD TAKE ADDITIONAL STEPS TO IMPROVE THE QUALITY AND THE AWARENESS OF EDUCATIONAL AND INFORMATIONAL CHILDREN'S PROGRAMMING.**

The *NPRM* invites comment on steps it could take to improve the quality of children's educational programming and increase the public's awareness of its existence. *NPRM* at ¶ 38. As discussed below, CME, *et al.* believe that for E/I programming to fully live up to its potential, the Commission should take additional steps to encourage broadcasters to improve the quality of E/I programming and to require broadcasters to promote the existence of E/I programs.

**A. The FCC Should Remind Broadcasters of Their Responsibility to Air in Good Faith E/I Programming that has Education as a "Significant Purpose."**

One of the key criteria of core educational and informational children's programming is that the program must have education as a "significant purpose." *1996 Children's TV Order*, 11 FCC Rcd at 10700. The Commission left the determination of whether a program meets the "significant purpose" test to the "good faith judgement" of broadcasters to be reviewed by the Commission only as a "last resort." *Id.* at 10701.

There is evidence that some broadcasters are abusing that "good faith" discretion. A 1999 study by the Annenberg Public Policy Center found that many shows labeled as E/I were of such questionable educational value that it was too difficult to conclude that they dealt with important issues in a meaningful way. Schmitt, *supra* note 16, at 21. Examples of findings

were: (1) a broadcaster listed the show *Jumanji* as educational because it illustrated how characters “survive the jungle by being creative and athletic”; (2) a broadcaster reported that the show entitled *Super Mario Brothers*, an animated show based on a video game, constituted E/I programming because it illustrated “good versus evil . . . by showing the bad side of greed”; and (3) a broadcaster listed *Pocket Dragon Adventures* as an E/I program, yet three episodes were viewed without a single discernable lesson found. *Id.*

A more recent example is *Archie’s Weird Mysteries*, a PAX network program that airs five days a week on many PAX affiliates. This program constitutes the majority of the stations’ E/I programming. One station’s 398 form described the program as an animated series “loaded with the fun and goofy antics of pop culture’s most enduring and loved comic book character. The audience learns about teamwork, patience, acceptance of others, humor and more.”<sup>77</sup> These claims echo the earlier reports of some broadcasters that *The Jetsons* and *The Flintstones* qualified as educational under the CTA.<sup>78</sup> The 1996 *Children’s TV Order* was designed to bring this behavior to an end.

The Commission should take affirmative steps to address some broadcasters’ violations of their “good faith” discretion. The FCC should issue a public notice reminding broadcasters

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<sup>77</sup> WPXW’s FCC 398 Form for quarter ending 3/31/2000, *available at* <http://www.fcc.gov>. The program is described as follows: “This animated series brings back Archie and the gang to Riverdale. Only this time Archie inadvertently shorts out the high school’s science lab’s new Hyper Sub-Molecular Quarkinator. This creates a hole in the cosmic fabric of sleepy Riverdale and turns it into a kind of suburban Bermuda Triangle. It becomes a weirdness magnet. Each show is loaded with the fun and goofy antics of pop culture’s most enduring and loved comic book characters. The audience learns about teamwork, patience, acceptance of others, humor, and more.”

<sup>78</sup> See Edmund L. Andrews, *Broadcasters, to Satisfy Law, Define Cartoons as Education*, N. Y. TIMES, Sept. 30, 1992, at A1.

not to abuse their good faith discretion in airing E/I programming with education as a significant purpose. In addition, the FCC should instruct the staff to begin a study of this practice and investigate instances where it appears that a broadcaster may be abusing its good faith discretion.

**B. The FCC Should Take Additional Steps to Increase Public Awareness of the Availability and Location of Core Programming.**

As the Commission notes, studies continue to demonstrate that parents are “unaware of the availability of educational programming and how to locate it.” *NPRM* at ¶ 38. In a recent survey only two out of 62 mothers (3%) knew of the existence of the three-hour programming guideline.<sup>79</sup> Another study found that most parents are unaware of the programs broadcasters air to satisfy the three-hour guideline.<sup>80</sup> The same study found that only six percent of parents could discern the meaning of the E/I symbol. Stanger and Gridina, *supra* note 80, at 3.

One of the reasons parents may not know about the existence of E/I programming is because E/I programming is not being promoted enough by broadcasters. For instance, the Mass Media Bureau has consistently admonished CBS and NBC over the past three years for the paucity of prime time E/I program promotions they air on their owned and operated stations.<sup>81</sup>

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<sup>79</sup> Kelly L. Schmitt, *Public Policy, Family Rules and Children’s Media Use in the Home*, ANNENBERG PUBLIC POLICY CENTER 10 (2000). *See also* Emory H. Woodard, *Media in the Home 2000: The Fifth Annual Survey of Parents and Children*, ANNENBERG PUBLIC POLICY CENTER 33 (2000) (finding that less than half of parents were aware that programs are listed as educational).

<sup>80</sup> Jeffrey D. Stanger & Natalia Gridina, *Media in the Home 1999: Fourth Annual Survey of Parents and Children*, ANNENBERG PUBLIC POLICY CENTER 23 (1999).

<sup>81</sup> *See 1997-1998 Bureau Preemption Report* at 16-17; Letter From Roy J. Stewart, Chief Mass Media Bureau, FCC, to Mark W. Johnson, Associate General Counsel, CBS Corporation (Jan. 3, 2000) (on file with author); Letter from Roy J. Stewart, Chief, Mass Media Bureau, FCC, to Diane Zipursky, Washington Counsel, NBC (Jan. 3, 2000) (on file with author).

Despite repeated questioning by the Bureau, neither network has improved its performance.<sup>82</sup>

Considering this indifference to the promotion of E/I programming, it is not surprising that many parents are unaware of the availability of E/I programming.

To address this problem, CME, *et al.* believe that the Commission should amend the definition of E/I programming to include adequate promotion as one of the core elements.<sup>83</sup> The Commission included the regularly scheduled requirement in its E/I definition to ensure that such programming would be able to gain an audience. *1996 Children's TV Order*, 11 FCC Rcd at 10710-11. Adequate promotion of E/I programming is equally important to ensuring the viability of an audience. The number and extent of E/I promotions should include a significant number of prime time promotions, as well as the standard promotions that broadcasters give their regular programming. To give broadcasters an incentive to air promotions for E/I programming, such promotions should not count toward licensees' commercial limits. *See supra* Part V.

Another step the Commission can take to increase parental awareness is to require broadcasters to use a standardized E/I icon. In the *1996 Children's TV Order*, the FCC adopted

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<sup>82</sup> CBS did not air a single prime time promotion for E/I programming during the 1998-1999 season. *Letter to CBS, Jan. 3, 2000*. And the Bureau remains "concerned about NBC's failure, once again, to fulfill its commitment that 'TNBC shows will be promoted on-air during prime time in a way that targets the teen audience'" during the 1998-1999 television season. *Letter to NBC, Jan. 3, 2000*.

<sup>83</sup> Currently, to qualify as an E/I program, the program must satisfy six criteria: "(1) the program has education as a significant purpose; (2) the educational objective of the program and the target child audience are specified in writing in the children's programming report; (3) the program is aired between the hours of 6:00 a.m. and 11:00 p.m.; (4) the program is regularly scheduled; (5) the program is of a substantial length (*e.g.*, 15 or 30 minutes); and (6) the program is identified as educational children's programming at the time it is aired, and instructions for listing it as educational programming are provided by the licensee to program guides." *1996 Children's TV Order*, 11 FCC Rcd at 10696.

the on-air program identification requirement to assist parents in planning their children's viewing and improve broadcaster accountability to the public. *Id.* at 10686-87. Noting the speculative concerns of a few commenters that on-air identification may deter children from watching educational programs, the Commission left the manner and form of the on-air program identification to the discretion of the licensee. *Id.* at 10687. The Commission indicated that it would revisit the issue at a later point. *Id.*

Since the adoption of the guidelines, studies demonstrate that few parents know that licensees broadcast on-air identifications of E/I programming and even less can identify what the E/I symbol means.<sup>84</sup> This is due in part to the multiple E/I symbols broadcasters employ as on-air identifiers and the difficulty in comprehending the E/I icons. *See Jordan, supra* note 14, at 24. For example, ABC uses a lightbulb, NBC uses a bald head with glasses, and CBS uses an E/I in circles. *Id.* The use of a uniform, easily understandable E/I icon would assist parents in identifying E/I programming. Moreover, a consistent, conspicuous identifier would not dissuade children from watching the program. The majority of parents believe that children would not turn away from programs clearly labeled as educational and only one in ten children say they would be less likely to watch a program labeled as such.<sup>85</sup>

Thus, CME, *et al.* recommend that the Commission amend the definition of E/I programming to include the use of a standard, easily understandable on-screen icon to identify educational children's programming. This revision would be fairly simple because the FCC already requires an E/I program to be "identified as educational children's programming at the

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<sup>84</sup> Stanger and Gridina, *supra* note 80, at 21-22; Woodward, *supra* note 79, at 32-33.

<sup>85</sup> Stanger and Gridina, *supra* note 80, at 23; Schmitt, *supra* note 79, at 12.

time it is aired." *1996 Children's TV Order*, 11 FCC Rcd at 10696. To complement this measure, the FCC could require stations to air PSAs informing parents about the meaning of the E/I icon. These PSAs would help parents to make more informed decisions about their children's viewing habits and would have the added benefit of promoting E/I programming.

**VII. THE COMMISSION SHOULD ENCOURAGE BROADCASTERS TO REFRAIN FROM AIRING AGE-INAPPROPRIATE PROMOTIONS DURING CHILDREN'S PROGRAMMING.**

Finally, the FCC also seeks comment on what measures it should take to address the airing of age-inappropriate promotions on programs designed for children or families. *NPRM* at ¶ 36. The Commission suggests two solutions: require that promotions be subject to V-chip technology and screening, or require that promotions be rated and aired only on children's programs that are consistent with the rating of the promotion. *NPRM* at ¶ 36.

CME, *et al.* recommend that the Commission encourage broadcasters to refrain from promoting age-inappropriate material during children's programming. It is entirely inappropriate for a public trustee to direct ads for R-rated films, or programs rated for mature audiences, to programs where children under 12 are the target audience. Presently, the TV industry is responsible for rating its own programming. The V-Chip technology uses these ratings to help parents decide what programs are appropriate for their children. CME, *et al.* value the rating system and the V-Chip. While we acknowledge its voluntary nature, we encourage its continued use. CME, *et al.* believe that these same voluntary standards should apply to promotions as well. Accordingly, broadcasters should use the current framework of the V-Chip and the existing rating system to ensure that such promotions are not aired during children's programming.

## CONCLUSION

For the foregoing reasons, CME, *et al.* believe that the longstanding public interest obligations of broadcasters to provide programming to serve the educational needs of children should be adapted to reflect the new capabilities of DTV. CME, *et al.* propose that the FCC implement a new processing guideline based on a point system to provide DTV broadcasters with the flexibility to better serve the needs of children. The FCC should also develop strong preemption policies for both analog and digital broadcasters to ensure the viability of educational programming. With respect to the Commission's traditional children's advertising rules and policies, CME, *et al.* believe that here too the FCC should adapt its rules to digital technology. Existing commercial safeguards must apply to all program streams, including ancillary and supplementary services, and the FCC should prohibit the direct linking from children's programs to commercial websites or online services to protect children from unfair and excessive interactive advertising practices. The FCC should also revise its definition of "commercial matter," take steps to improve the quality and awareness of E/I programming, and encourage broadcasters to refrain from airing age-inappropriate promotions during children's programming.

Respectfully submitted,



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December 18, 2000

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# **APPENDIX**

## **APPENDIX**

### **Description of Organizations**

**THE CENTER FOR MEDIA EDUCATION (CME)** is a national non-profit, nonpartisan organization dedicated to creating a quality electronic media culture for children, their families, and the community. CME's four-year national campaign led to the 1996 Federal Communications Commission rule requiring a weekly minimum of three hours of educational television programming. CME's report "Web of Deception" (1996) was the first to draw attention to potentially harmful marketing and data-collection practices targeted at children on the Internet and laid the groundwork for the Children's Online Privacy Protection Act (COPPA).

**ACCESS FOR ALL (AFA)** is a New York coalition of groups such as public access TV centers and public library advocates, working for greater public access to communications resources. AFA currently published the guide, "Access for All: A Beginners Map to New York State Telecommunications Policy." AFA is also an international distribution venue devoted to developing strategies to secure universal access to quality interactive media for all children. It conducts workshops about telecommunications issues for the public, educating people on how to become advocates for a more democratic media system.

**THE AMERICAN ACADEMY OF CHILD AND ADOLESCENT PSYCHIATRY (AACAP)** is a nonprofit professional organization representing over 6,500 child and adolescent psychiatrists. Its members are physicians with at least five years of additional training beyond medical school in general and child and adolescent psychiatry. Its members actively research, diagnose and treat psychiatric disorders affecting children, adolescents, and their families. The AACAP is committed to protecting the well being and rights of children and their families.

**THE AMERICAN PSYCHOLOGICAL ASSOCIATION (APA)** is the largest scientific and professional organization representing psychology in the United States. With more than 159,000 members, APA is also the largest association of psychologists worldwide. The APA works to advance psychology as a science, a profession, and a means of promoting human welfare.

**WILLIAM R. BEARDSLEE, M.D.** is an expert in child psychiatry, depression in families, prevention of psychiatric disorders and healthcare for poor children. Dr. Beardslee is the Gardner Monks Professor of Child Psychiatry and Chairman of the Department of Psychiatry at Children's Hospital in Boston. The department has a long, historic affiliation with the Judge Baker Children's Center through joint clinical, research, and prevention programs, in addition to providing onsite preventive school consultation programs with several Boston local schools. Dr. Beardslee also serves on the Executive Committee of Harvard University Medical School's Department of Psychiatry.

**THE CENTER FOR COMMERCIAL-FREE PUBLIC EDUCATION** is a national non-profit organization that addresses the issue of commercialism in the nation's public schools with a special focus on using grassroots efforts to mobilize students, parents, teachers and other concerned citizens across the U.S. to keep their schools commercial-free and community-controlled. The Center was founded in 1993 amid an outpouring of resistance to Channel One and has been one of the groups instrumental in coordinating a campaign to protect students' privacy.

**THE CENTER FOR SCIENCE IN THE PUBLIC INTEREST (CSPI)** is a non-profit health-advocacy organization, founded in 1971 in Washington, DC, that focuses on alcoholic-beverage problems, nutrition, and food safety. A major focus of CSPI's efforts has involved the study and monitoring of alcoholic-beverage marketing practices that target and appeal to impressionable young people. CSPI led efforts to win passage of the law requiring warning labels on alcoholic beverages and has worked with CME to promote heightened legislative and regulatory scrutiny regarding online targeting of young people by alcohol and tobacco marketers and the development of effective safeguards to shield young people from unfair and deceptive advertising of harmful products.

**THE COALITION FOR QUALITY CHILDREN'S MEDIA (CQCM)** is a ten year old, national, not-for-profit organization based in Santa Fe, NM, with chapters in three other states/territories – Indiana, Utah and the U.S. Virgin Islands. The CQCM has received national acclaim for its children's media evaluation and rating initiative, which is called "KIDS FIRST!" The CQCM trains and manages a volunteer jury comprised of more than 3300 adults and children as media evaluators in its KIDS FIRST! program.

**THE CONSUMER FEDERATION OF AMERICA (CFA)** is a non-profit association of some 270 pro-consumer groups, with a combined membership of 50 million that was founded in 1968 to advance the consumer interest through advocacy and education. CFA has worked closely with CME to defend the rights of children's privacy online and jointly publish a consumer education brochure for parents and children entitled, *The Internet, Privacy and Your Child: What You Need to Know as a Parent/Keeping Secrets About You on the Internet, A Kid's Guide to Internet Privacy*.

**DANIEL CORLEY** is Head of School, Community Prep School, Providence Rhode Island.

**CITIZENS FOR INDEPENDENT PUBLIC BROADCASTING (CIPB)** is a national membership organization dedicated to putting the public back into public broadcasting. At the national level, CIPB is building a coalition to promote an independently funded and publicly accountable Public Broadcasting Trust. At the community level, CIPB supports chapter initiatives to democratize programming on local public broadcasting stations.

**CONCERNED EDUCATORS ALLIED FOR A SAFE ENVIRONMENT (CEASE)** is a non-profit organization comprised mostly of child care professionals and teachers of child care professionals who care about the environment in which their kids are growing up. CEASE was founded in 1980.

**DADS AND DAUGHTERS (DADs)** is a national non-profit education and advocacy group that strengthens father-daughter relationships and works to transform pervasive cultural messages that value girls more for how they look than for who they are.

**WILLIAM J. DOHERTY, PH.D.**, is a professor of family social science and Director of the Marriage and Family Therapy Program, University of Minnesota; and past president, National Council on Family Relations. He is a family researcher and family therapist, and is an author of 11 books on family life. Dr. Doherty's most recent book is Take Back Your Kids: Confident

## Parenting in Turbulent Times.

**LEON EISENBERG, M.D.**, is a Maude and Lillian Presley Professor of Social Medicine and Professor of Psychiatry Emeritus at Harvard Medical School. Dr. Eisenberg was professor of child psychiatry at the John's Hopkins University School of Medicine and has received awards from the American Academy of Pediatrics, the American Psychiatric Association and the Institute of Medicine.

**ROALD HOFFMAN, PH.D.**, is a professor in the Department of Chemistry at Cornell University's Baker Laboratory. Dr. Hoffman is the co-winner of the 1981 Nobel Prize for chemistry and narrator of the PBS television series "The World of Chemistry." He is a leader in the discussion of a unity existing between science and the arts and has written books as well as popular and scholarly articles on science and other subjects.

**JUNKBUSTERS CORP.** helps consumers protect their privacy online and defend themselves against intrusive marketing. At <http://www.junkbusters.com>, the company provides extensive free resources for stopping telemarketing calls, unwanted physical mail, junk email, and commercial invasions of privacy on the Internet.

**JEAN KILBOURNE, PH.D.**, is a writer, lecturer and visiting research scholar at Wellesley College's Centers for Women. Dr. Kilbourne has done more than anyone in the world to raise public awareness about how advertising encourages addictive behaviors among women. Her work focuses on how the marketing of alcohol, nicotine, and diet products negatively affect women's self-image. Dr. Kilbourne was recently featured in The New York Times Magazine as one of the three most popular speakers on college campuses today, and has been named Lecturer of the Year by the National Association for Campus Activities.

**VELMA LAPOINT, PH.D.**, is an associate professor of child development, at Howard University's Department of Human Development and Psycho-educational Studies, in the School of Education.

**DIANE E. LEVIN, PH.D.**, is a professor of education at Wheelock College and is also co-chair of Teachers Resisting Unhealthy Children's Entertainment (TRUCE)

**KAREN LEWIS, RN MPH**, is the nurse manager for the Children's AIDS Program (CAP). CAP is a program of Boston Medical Center and is also a part of the pediatric infectious disease department. CAP is a free day care/after school and summer program for children 0-16 years old who are living with HIV/AIDS.

**SUSAN LINN, ED.D.**, is the Associate Director of the Media Center for Children at the Harvard University-affiliated Judge Baker Children's Center and is an instructor in psychiatry at Harvard Medical School. Dr. Linn is a psychologist and award winning producer and writer. She has most recently produced the pilot episode for "Willoughby's Wonders," a half-hour, live-action comedy drama designed to help children acquire basic coping skills. Her recent publications include articles in the Los Angeles Times and Newsweek. Dr. Linn is internationally known for her innovative work using puppets in child psychotherapy.

**ROBERT MCCHESENEY, PH.D.**, is Research Professor in the Institute of Communications Research and the Graduate School of Library and Information Science at the University of Illinois at Urbana-Champaign. His work concentrates on the history and political economy of communication, emphasizing the role media plays in democratic societies. Dr. McChesney co-edits the History of Communication Series for the University of Illinois Press, serves on the editorial boards of several journals, is a research advisor to numerous academic and civic organizations, and has written or edited seven books, including the award-winning Telecommunications, Mass Media, and Democracy: The Battle for the Control of U.S. Broadcasting, 1928-1935.

**THE MEDIA EDUCATION FOUNDATION (MEF)** is the leading producer and distributor of educational video tapes directed at young people that critically examine the role of the mass media in society. Their work focuses on issues of violence, commercialism, race, gender and sexuality. MEF was founded in 1991 by Professor Sut Jhally of the University of Massachusetts at Amherst, who is also the producer of another dozen films (including *The Date-Rape Backlash*; *Advertising and the End of the World*; *Tough Guise - Violence, the Media and the Crisis in Masculinity* (with Jackson Katz); and *Killing Us Softly 3 – Advertising’s Image of Women* (with Jean Kilbourne) dealing with issues from commercialism and popular culture to violence and gender.

**MARK CRIPSIN MILLER, PH.D.**, is a professor of media ecology at New York University, where he also directs the Project on Media Ownership (PROMO). Dr. Miller’s research focuses on modern propaganda, the history and tactics of advertising, American film, and media ownership. He has written numerous articles and is the author of Boxed In: The Culture of TV and the editor of Seeing Through Movies.

**THE MOTHERHOOD PROJECT** is a project of the Institute for American Values directed by Affiliate Scholar Enola Aird, J.D. The Project was founded in 1999, as a multi-year program designed to put the importance of motherhood on the national agenda and to spark a revival in the work of mothering. Through a program of research, publication, and public education, the Institute will work toward its goal to foster family foundations for the benefit of children and the nation’s civic renewal.

**THE NATIONAL ALLIANCE FOR NON-VIOLENT PROGRAMMING (NANP)** is a not-for-profit network of organizations with a long history of effective community involvement and education. Member organizations include Jack and Jill of America, Inc., Jewish Women International, the Links, Inc., the National Association of Women Business Owners, National Council of LaRaza, Parents as Teachers, Soroptimist International of the Americas, and YWCA of the U.S.A. With the capacity to reach two million people, NANP builds and supports community initiatives to promote and teach media literacy and non-violence. NANP headquartered in Greensboro, NC, serves as the information, technical assistance, materials distribution, and network center for member organizations, local initiatives and the general public.

**THE NATIONAL ASSOCIATION FOR ELEMENTARY SCHOOL PRINCIPALS**

(NAESP) was founded in 1921 by a group of principals who sought to promote their profession and to provide a national forum for their ideas. Over the past 75 years, NAESP has grown to become the most powerful voice of Pre-K-8 principals across the United States and around the world with a peer network of more than 27,000 principals worldwide. The NAESP is dedicated to assuring the nation's continued strength and prosperity by assuring the best possible schooling for its most important resource, the children. Its mission is to serve as advocates for children and to help principals do the best job possible.

**THE NATIONAL ASSOCIATION FOR FAMILY AND COMMUNITY EDUCATION** is

an organization of nearly a half-million grassroots volunteers with a mission to strengthen individuals and families in every community with a special focus on family issues today. Its projects concentrate on issues pertaining to literacy, the environment, children, leadership and families, with a focus on improving the quality of life through grassroots and community-oriented outreach programs. The Association is located in Kentucky.

**THE NATIONAL BLACK CHILD DEVELOPMENT INSTITUTE (NBCDI)** advances a

multi-faceted agenda to promote and protect the well being of all African American children. NBCDI's programs assist children and families who are experiencing challenges in the areas of early care and education, health, parenting, education, and child welfare. NBCDI's affiliate chapters are comprised of volunteers that serve as a resource to people who are professionally and personally committed to children and families. NBCDI is based in Washington, DC.

**THE NATIONAL COALITION ON TELEVISION VIOLENCE (NCTV)** was formed in

1980. Its major purpose was to call attention to the high level of violence during prime time television and Saturday morning programming for children. From 1980 until 1992, NCTV monitored acts of violence on television programs. Lists of the most violent programs were published. In 1993 both the broadcast and cable industries undertook their own monitoring efforts, supporting the views of NCTV. The organization now acts as a clearinghouse, providing information to individuals, groups, educators and others interested in improving the media environment. NCTV has offices in Boston, Washington and Detroit.

**THE NATIONAL EDUCATION ASSOCIATION (NEA)** is America's oldest and largest

organization committed to advancing the cause of public education. Founded in 1857, the NEA has over 2.3 million members who work at every level of education, from pre-school to university graduate programs. NEA has affiliates in every state as well as in over 13,000 local communities across the United States.

**THE NATIONAL INSTITUTE ON MEDIA AND THE FAMILY** is a non-partisan, non-

sectarian, non-profit organization dedicated to providing research, information, and education about the impact of media on children and families. The Institute seeks to provide parents, educators, and community leaders with the reliable information they need to make informed choices.

**THE NATIONAL PTA** is the largest volunteer child advocacy organization in the United

States. The National PTA is a not-for-profit organization of parents, educators, students, and other citizens active in their schools and communities, and is concerned with the education,

health, and welfare of children and youth.

**THE NEW MEXICO MEDIA LITERACY PROJECT (NMMLP)** produces media literacy CD-ROMS, videos and curricula that are used in thousands of schools. Last year the NMMLP directly gave 352 presentations and workshops to just over 55,000 people and ran four research studies with over 1,500 students. Several states have hired NMMLP to help them replicate the NMMLP model of activist-oriented, bottom-up media literacy growth. The NMMLP was founded by Hugh and Diedre Downs in 1993 and is sustained with no advertising or support from media companies.

**ALVIN F. POUISSANT, M.D.**, is a professor of psychiatry at Harvard Medical School and Director of the Media Center of the Judge Baker Children's Center in Boston. Dr. Pouissant is also Faculty Associate Dean for Student Affairs at Harvard Medical School. Dr. Pouissant is a highly regarded expert on race relations in America and has served as a consultant to numerous government agencies and corporations. He has lectured at many colleges on prejudice in our society and the need for tolerance. In 1997, he received a New England Emmy award for Outstanding Children's Special as co-executive producer of "Willoughby's Wonders."

**PUBLIC ADVOCACY FOR KIDS** is a non-profit child advocacy organization devoted to address education, health, telecommunication, and parental involvement issues at the federal level. Services provided on a consulting basis include advocacy training, child policy development, organizing for local and federal action, and communications development.

**JULIET SCHOR, PH.D.**, is Senior Lecturer on Women's Studies at Harvard University and Professor of the Economics of Leisure Studies at Tilburg University, the Netherlands.

**JOHN SURR** is a long-time advocate for young children. He is an active member of CEASE, and is also the Treasurer of the Children's Foundation, Vice Chair of the American Bar Association's Committee on the Rights of Children and is a shareholder activist, especially on issues that pertain to the quality of children's television.

**BETSY TAYLOR** is the executive director of the Center for the New American Dream, which is a national non-profit organization working to reduce and shift consumption patterns in the U.S. to promote quality of life and protect the environment. The Center works to counter excess commercialism and hyper-consumerism throughout the media, organizing public education and advocacy campaigns.

**THE TELEVISION PROJECT** is an educational organization that strives to help parents understand how television affects their families and community, and proposes alternatives that foster positive emotional, cognitive and spiritual development within families and communities. Through its workshops and "Beyond TV" newsletter, the Television Project strives to provide a new awareness of the pervasiveness and persuasiveness of the medium, and a commitment to follow through with our individual goals to monitor the use of television in the home more closely.