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DOW, LOHNES & ALBERTSON, PLLC
ATTORNEYS AT LAW

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NAM E. KIM
DIRECT DIAL 202-776-2453
nkim@dlalaw.com

WASHINGTON, D.C.
1200 NEW HAMPSHIRE AVENUE, N.W. · SUITE 800 · WASHINGTON, D.C. 20036-6802
TELEPHONE 202-776-2000 · FACSIMILE 202-776-2222

ONE RAVINIA DRIVE · SUITE 1600
ATLANTA, GEORGIA 30346-2108
TELEPHONE 770-901-8800
FACSIMILE 770-901-8874

December 18, 2000

VIA HAND DELIVERY

Ms. Wanda Hardy
Federal Communications Commission
445 Twelfth Street, S.W.
Room 2-C221
Washington, D.C. 20554

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

Re: MM Docket No. 00-168 /
Comments of Paxson Communications Corporation

Dear Ms. Hardy:

On behalf of Paxson Communications Corporation ("Paxson"), we submit herewith a diskette copy of Paxson's comments in response to the FCC's *Notice of Proposed Rule Making In the Matter of Standardized and Enhanced Disclosure Requirements for Television Broadcast Licensee Public Interest Obligations* in MM Docket No. 00-168. Please contact the undersigned if you have any questions about this submission.

Very truly yours,



Nam E. Kim

Enclosure

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BEFORE THE
FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON, D.C. 20554

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DEC 18 2000
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OFFICE OF THE SECRETARY

In the Matter of)
)
Children's Television Obligations)
Of Digital Television Broadcasters)

MM Docket No. 00-167

In the Matter of)
)
Standardized and Enhanced)
Disclosure Requirements for)
Television Broadcast Licensee)
Public Interest Obligations)

MM Docket No. 00-168

To: The Commission

COMMENTS OF PAXSON COMMUNICATIONS CORPORATION

John R. Feore, Jr.
Elizabeth A. McGearry
Nam E. Kim

DOW, LOHNES & ALBERTSON, PLLC
1200 New Hampshire Avenue, N.W.
Suite 800
Washington, D.C. 20036
(202) 776-2000

December 18, 2000

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SUMMARY

As a broadcaster offering viewers family-friendly programming unduplicated by other television and cable networks, Paxson has a vital interest in the FCC's proceedings regarding the children's programming and public interest obligations of television broadcast licensees.

Paxson respectfully urges the FCC to maintain its current three-hour children's core programming guideline for the digital television station. The imposition of additional children's programming obligations is not necessary and would be unduly burdensome on broadcasters without providing any real benefit to children. Paxson proposes that the FCC allow broadcasters more flexibility in fulfilling their children's programming requirements by expanding the definition of "educational and informational programming." During and after the DTV transition, the FCC also should permit broadcasters to air all of their children's programming and public interest programming on one multicast channel as an innovative use of the multicasting capability available from DTV. Furthermore, whether a broadcaster airs one or more digital signals on the station's DTV channel should have no bearing on the nature of the operator's programming obligations under the FCC's rules. Such programming obligations are imposed on stations, which should be able to decide how best to meet their obligations to their communities.

Paxson respectfully submits that the FCC should define "public interest programming" broadly to encompass programs other than traditional news and public affairs programs. Paxson proposes that the FCC adopt specific initiatives that broadcasters could voluntarily follow to demonstrate compliance with their public interest obligations. Paxson proposes that the FCC adopt guidelines to ensure the regular airing of public service announcements, encourage stations to provide five minutes of air time each night for candidate-centered discourse during the thirty days prior to an election, and adopt a voluntary Public Interest Code of Conduct.

**Before the
FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON, D.C. 20554**

In the Matter of)
)
Children’s Television Obligations) MM Docket No. 00-167
Of Digital Television Broadcasters)

In the Matter of)
)
Standardized and Enhanced) MM Docket No. 00-168
Disclosure Requirements for)
Television Broadcast Licensee)
Public Interest Obligations)

To: The Commission

COMMENTS OF PAXSON COMMUNICATIONS CORPORATION

Paxson Communications Corporation (“Paxson”), by its attorneys, hereby submits its Comments in response to the Commission’s *Notice of Proposed Rulemaking* concerning the children’s television obligations of digital television broadcasters (MM Docket No. 00-167) and the Commission’s *Notice of Proposed Rulemaking* concerning standardized and enhanced disclosure requirements for television broadcast licensees’ public interest obligations (MM Docket No. 00-168). As the owner of the largest broadcast television group in the United States and the creator of the seventh and newest over-the-air broadcast network, PAXTV, Paxson has a vital interest in this proceeding.

Paxson supports the Commission’s initiative to examine how the longstanding broadcast public interest standard should be implemented and applied in a world of digital television (“DTV”) and welcomes the call for responsible media citizenship. Paxson takes seriously the

many important roles of being a responsible broadcaster, and Paxson cannot help but note with pride its continuing efforts to provide family-oriented television programming free of violent and sexual content. Paxson plans to continue its family-friendly service in the DTV world by creating and launching multiple channels of family programming to diversify the video programming it delivers to the marketplace.

Paxson's Comments herein address the FCC's inquiry regarding the children's programming obligations and general public interest obligations of broadcasters in the DTV world. Paxson strongly believes that the FCC should not increase the current requirement that broadcasters air an average of three hours per week of core educational and informational children's programming per station whether or not multicasting is a factor. Paxson also believes that the FCC should allow broadcasters more flexibility in fulfilling the requirements of children's educational and informational programming by expanding the definition of "educational and informational programming." Furthermore, Paxson urges the FCC to permit broadcasters to air all of their children's programming and public interest programming on one multicast channel as an innovative use of the multicasting capability available from DTV.

Paxson further urges the Commission to foster broadcasters' creativity in fulfilling general public interest requirements by adopting a flexible application of the definition of "public interest programming." Broadcasters should be permitted to exercise discretion in choosing the types of programming that are responsive to the public interest. By permitting the broadcaster to air all of the station's public interest, community service, and children's programming on one multicast channel, the FCC will allow the community and its people to enjoy the beneficial service of a designated community channel. Such a channel will be easily recognizable for its community programming, which will only help to attract audiences.

Furthermore, whether a broadcaster airs multiple digital signals on the station's DTV channel or not, it should have no bearing on the nature of the operator's programming obligations under the FCC's rules.

Paxson proposes that the FCC implement the following proposals that broadcasters could voluntarily follow to demonstrate compliance with and satisfaction of their public interest obligations. First, while permitting licensees to maintain programming discretion and flexibility, the FCC should implement a schedule for stations to follow in airing public service announcements ("PSAs") such as one PSA per hour for fifteen hours a day during the daytime and prime time hours. Second, stations would be encouraged to commit to providing free air time of five minutes each day between the hours of 5:00 p.m. and 11:35 p.m. for political discourse during the thirty days prior to an election. Finally, Paxson urges the FCC to adopt a voluntary Public Interest Code of Conduct for broadcasters. In this manner, the FCC could provide additional guidelines to broadcasters regarding their public service obligations without abridging broadcasters' First Amendment rights to choose programming content.

I. THE FCC SHOULD MAINTAIN THE CURRENT CHILDREN'S PROGRAMMING REQUIREMENTS AND PERMIT BROADCASTERS TO BE FLEXIBLE IN CHOOSING THE CONTENT AND LOCATION OF THE PROGRAMMING ON THEIR DIGITAL PROGRAMMING STREAMS.

A. The FCC Should Maintain The Current Children's Programming Requirements.

Paxson respectfully urges the FCC to maintain the current three-hour children's core programming guideline for the digital television station; the imposition of additional children's programming obligations on broadcasters simply is not necessary and would be unduly burdensome without providing any real benefit for children.

Paxson agrees wholeheartedly that we as a nation should be concerned with the programming that is available to children. As stated previously, Paxson has committed to airing only family-friendly programming that is free of sex and gratuitous violence and that parents would consider to be appropriate for their children. However, Paxson urges the FCC not to increase broadcasters' children's programming requirements because it is very difficult for stations to satisfy even the current children's programming obligations and this is unlikely to change in the digital world. The difficulty stems from the lack of audience for most children's programming and the diminished supply of quality programming available to broadcasters. Due to the large number of cable channels which have secured the high-quality, popular children's programs, there is a limited supply of high-quality, successful programs that a broadcast television station is able to obtain. The broadcaster is thus left with fewer choices of children's programming that is not as well-received by viewers. Without ratings and viewers, broadcasters cannot receive revenue from these programs, further undermining their ability to serve their communities. In contrast, when Paxson obtained children's programming from Jack Hanna Productions, PAXTV was able to command a greater number of viewers and higher ratings than it had previously. With higher ratings, the station could reach a broader audience and garner higher revenues. Unfortunately, high-quality shows like those from Jack Hanna Productions are not readily available. Given the significantly limited supply of high quality children's programming available to broadcasters, broadcasters would be hard-pressed to find sufficient high-quality programming if the FCC were to increase the required number of average hours of core programming.

It is true there is a fair amount of disagreement over whether the children's core programming obligation creates economic hardships for stations. During the hearing before the

FCC regarding the public interest obligations of TV broadcast licensees, Susan Altman, the producer of “It’s Academic,” stated, “Some broadcasters have decried these regulations saying that such programs get low ratings and the children aren’t watching them. Well, I can only say that perhaps their programs just aren’t good enough and perhaps they are not using the medium to the full extent of its capabilities.”¹ Chairman Kennard later prefaced his inquiry of whether there is a successful business model for children’s programming with the comments, “Ms. Altman, of course, you have one of the most successful local children’s shows. But you have a long time sponsor in Giant Foods that has been with you consistently. And Ms. Sweeney [Anne Sweeney of the Disney ABC Cable Network], you have – coming from the cable industry, you have somewhat of a different economic model than the broadcasters.”² Paxson submits that distinctions such as these are pivotal between those providers who can afford to air children’s programming without any resulting economic hardships and those broadcasters who strive to provide children’s programming without the benefits of full sponsorship.

The current children’s core programming guideline challenges a broadcaster’s ability to maintain full sponsorship and threatens his economic viability and ultimate ability to serve the public at all. The added economic hardships of an increased children’s core programming requirement coupled with the enormous expenses borne by broadcasters in implementing the transition to DTV would threaten the future of many stations in small and medium-size markets.

¹ *In the Matter of En Banc Hearing On the Public Interest Obligations of TV Broadcast Licensees*, Transcript at p. 39, lines 8-12 (Oct. 16, 2000).

² *Id.* at p. 51, lines 8-13.

B. The FCC Should Permit Broadcasters To Be Flexible In Meeting Children's Programming Obligations.

Paxson proposes that the FCC can alleviate the economic tension resulting from the children's programming requirements by permitting broadcasters to be creative in meeting their children's programming obligations. For example, broadcasters could also satisfy their obligations by educating children through community activities such as career day, studio tours, sponsorship of events with schools, public service announcements for children's activities, and community service and PSAs for children's organizations. With increased regulatory flexibility, broadcasters could sponsor innovative programs that benefit and educate children but do not cause economic turmoil for broadcasters and threaten their future existence in the DTV world.

C. The FCC Should Permit Broadcasters To Satisfy Their Obligations In The Digital World By Programming One Multicast Channel With Community-Oriented, Public Service, and Children's Programming.

The FCC should permit broadcasters to designate one multicast channel to air their children's programming and public interest programming. In the digital world, broadcasters will be able to "multicast" or transmit multiple digital standard-definition television ("SDTV") signals. By permitting digital multicasting, the FCC will further the goals of programming diversity by offering viewers a greater choice – including those viewers that rely on free, over-the-air broadcast signals. Digital multicasting also will offer families increased choices to compete with the invasive presence of violent and sexual programming.

Moreover, by combining all of their community-oriented, public service, and children's programming on one multicast channel, parents and children would be better able to locate a station's children's educational programming and public interest programming. Once the multiple uses of the DTV spectrum such as multicasting, multiplexing, datacasting, teletexting, etc., become prevalent, parents and children may find it even more difficult to locate quickly a

station's children's educational and public interest programming. By affording broadcasters the flexibility to combine all of their public interest programming on one multicast channel that would be designated as the community channel, the FCC could alleviate much of viewers' potential confusion.

II. THE FCC SHOULD BROADLY DEFINE PUBLIC INTEREST PROGRAMMING AND PERMIT BROADCASTERS TO COMBINE THEIR PUBLIC INTEREST PROGRAMMING ON ONE MULTICAST CHANNEL.

A. The FCC Should Broadly Define "Public Interest Programming."

As a means of enhancing and standardizing the public interest disclosure requirements for broadcasters, the FCC has proposed that it would identify certain categories of public interest programming on a standardized form.³ Paxson urges the Commission to ensure that these categories are sufficiently broad to include many different types of programming that serve the public interest. For example, entertainment or religious programming can provide substantial benefits to the public that are as meaningful and community-responsive as news programming. In particular, given the history of our government and our nation, programming that is religious in nature must be considered to be programming that is in the public interest. In this manner, the public would benefit not only from the public interest nature of the programming but also from the resulting variety of programming offered on the air. By permitting broadcasters to be flexible in their choice of public interest programming content, the FCC also may avoid the First Amendment concerns that accompany content regulation.

³ *In the Matter of Standardized and Enhanced Disclosure Requirements for Television Broadcast Licensee Public Interest Obligations, Notice of Proposed Rulemaking*, MM Docket No. 00-168, ¶ 18 (rel. Oct. 5, 2000).

If the FCC were to limit the definition of public interest programming to the narrow categories of news and public affairs programming, viewers would be limited in the choices available to them on free, over-the-air broadcast television. By allowing broadcasters to be flexible in choosing the programming to meet their public interest obligations, the FCC would only foster diversity of programming rather than limit it. As the FCC stated in 1984 even before the growth of direct broadcast satellite (“DBS”), the internet, and cable television, “We believe that licensees should be given this flexibility to respond to the realities of the marketplace by allowing them to alter the mix of their programming consistent with market demand. Such an approach not only permits more efficient competition among stations, but poses no real risk to the availability of these types of programming on a market basis.”⁴

With the influx of DBS providers, internet content providers, cable television, and a multitude of other information sources that are competing constantly for the public’s attention, the availability of a vast array of programming and content from sources other than broadcast television is broader than it has ever been. Broadcasters must have the flexibility to be innovative in order to compete with these other media outlets. If broadcasters are limited to fulfilling their public interest obligations solely through the provision of traditional news and public affairs programming, the broadcast industry will stagnate while the media outlets that are free to develop and provide innovative programming and content will flourish. The public clearly would not benefit from stifling the creativity of broadcasters in this manner.

⁴ *The Revision of Programming and Commercialization Policies, Ascertainment Requirements, and Program Log Requirements for Commercial Television Stations, Report and Order*, 56 Rad. Reg. 2d 1005, 1015 (1984).

Paxson would like to note in particular that religious programming should be considered to fulfill the obligations of public interest programming. Programming with a religious viewpoint is, by its very nature, educational, instructional, and in the public interest. From before the dawn of this nation, (indeed, as the essence of what inspired its creation), the very fabric of our democratic government has been intertwined with tolerance of religion and the need for moral precepts for living in a democratic community. Simply put, for a democracy to function properly, its citizens must know right from wrong. The teachings of one's chosen faith are an integral part of the development of a citizen's good moral judgment. As the following quotations make clear, religion is at the very foundation of our republic:

- George Washington: "Of all the habits which lead to political prosperity, religion and morality are indispensable supports. Reason and experience both forbid us to expect that national morality can prevail in exclusion of religious principles."
- John Adams: "Our Constitution was made only for a moral and religious people. It is wholly inadequate to the government of any other."
- John Quincy Adams (ellipses added): "[T]he birth-day of the nation is indissolubly linked with the birth-day of the Saviour...[T]he Declaration of Independence first organized the social compact on the foundation of the Redeemer's mission upon earth [and] laid the corner stone of human government upon the first precepts of Christianity."

It cannot be disputed that religious programming with its educational aspects of life's values provides a public service to viewers in a station's local community, and it also offers variety to the mix of public interest programming generally available to the public. Paxson urges the FCC to define "public interest programming" broadly so that broadcasters will have the flexibility to air religious and other community-service programs created by community service organizations to fulfill their public interest programming obligations.

B. The FCC Should Permit Broadcasters To Air All of Their Public Interest Programming On One Multicast Channel.

As stated previously, the FCC should permit broadcasters to use one of their multicast channels to air all of their public interest and children's programming in satisfaction of their public interest obligations. In addition, broadcasters that choose to air one or more than one stream of programming on their digital channel should not be subject to differing programming requirements. As shown, the potential benefits of offering all of the public interest programming on one channel are significant. For example, as Paxson has stated, the one multicast channel containing all of the public interest programming could serve as a community channel serving the station's community and viewers. In addition, because broadcasters have not yet had the opportunity to multicast programming, the public, the FCC, and Paxson may discover additional benefits of offering all of a station's public service programming on one channel. At this early stage of the DTV transition, the FCC should be cautious about closing the door to any creative uses of the DTV spectrum. Whether the broadcaster airs one or more streams of programming on its digital station should have no bearing on the operator's FCC programming obligations. The FCC should permit broadcasters to have the freedom to experiment with datacasting, multicasting, multiplexing, and other digital services in order to cultivate innovation and experimentation that will ultimately benefit the public and could not otherwise develop in a more heavily regulated DTV world.

III. THE FCC SHOULD FOSTER PUBLIC SERVICE BY BROADCASTERS THROUGH SPECIFIC INITIATIVES.

Paxson proposes that the Commission adopt specific guidelines that broadcasters could voluntarily follow to demonstrate compliance with and satisfaction of their public interest obligations. First, Paxson proposes that the Commission institute a guideline for broadcasters to

follow for the airing of public service announcements. Second, Paxson proposes that stations be encouraged to commit to providing for free five minutes each night for candidate-centered discourse during the thirty days prior to an election. Finally, Paxson proposes a voluntary Public Interest Code of Conduct pursuant to which broadcasters would voluntarily adhere to a public interest code in return for a presumption of renewal expectancy during the license renewal process. Broadcasters could choose whether to comply with these guidelines or to demonstrate compliance through other public service initiatives.

A. The FCC Should Encourage Broadcasters To Air A Minimum Number Of Public Service Announcements.

Paxson strongly encourages the FCC to set a guideline whereby broadcasters would gain credit for public service by airing one public service announcement (“PSA”) per hour for fifteen hours each day during the day and prime time. By establishing a schedule and quota for airing PSAs, the FCC could ensure that broadcasters air a reasonable number of PSAs on a regular basis and provide broadcasters with concrete, non-content specific guidelines by which they could fulfill their public interest obligations. Broadcasters would continue to have flexibility in their selection of the content of the PSAs, but such a schedule would benefit the public through the regularly scheduled airing of PSAs at times when they could be most effective rather than during the “graveyard” hours between midnight and 6:00 a.m.

A PSA has been defined as “an announcement for which no charge is made and which promotes programs, activities, or services of Federal, State or local governments (e.g., recruiting, sales of bonds) or the programs, activities or services of nonprofit organizations (e.g., Red Cross

blood donations) and other announcements regarded as serving community interests.”⁵ PSAs can be an effective means by which broadcasters contribute to the public interest by facilitating the dissemination of information to the public. As Chairman Kennard noted in a recent speech, “When the broadcast industry commits to a public service campaign, they can literally change our country. Remember ‘Buckle Up for Safety?’ ‘Only You Can Prevent Forest Fires?’”⁶ Paxson agrees that PSAs have become integral components of the nation’s culture. Not only are PSAs effective in a national discourse, PSAs also serve as an effective means of raising local awareness of community resources, events, and issues of concern. Broadcasters provide valuable services to their communities by providing free air time for PSAs to local groups such as community associations, advocacy groups, and nonprofit organizations. These groups may use the donated air time to publicize community events, provide important information to the public, assist in fund-raising efforts, and raise public awareness. PSAs also can be tailored towards educating children.

Paxson recognizes that no matter how powerful a PSA’s message is, a PSA can only educate the public if it is aired during the times that people are watching television. How effective could the “Take a Bite Out of Crime” PSA have been if it had aired only at 2:00 a.m.? By offering broadcasters the option of airing PSAs once an hour for 15 hours each day during the day and prime time in return for public service credit, the FCC could ensure that the public reaps the benefit from PSAs.

⁵ *Closed Captioning and Video Description of Video Programming Implementation of Section 305 of the Telecommunications Act of 1996 Video Programming Accessibility*, 13 FCC Rcd 3272, 3329 (1997).

⁶ Speech of Chairman William Kennard, “What Does \$70 Billion Buy You Anyway,” Museum of Television and Radio, Oct. 10, 2000.

B. The FCC Should Encourage Broadcasters To Provide Five Minutes Each Night Between 5:00 p.m. And 11:35 p.m. For Candidate-Centered Discourse Thirty Days Prior To An Election.

Paxson agrees with the proposal of the FCC in its *Notice of Inquiry* and the Advisory Committee on the Public Interest Obligations of Digital Television Broadcasters (the “Gore Commission”) in its report “that television broadcasters provide five minutes each night between 5:00 p.m. and 11:35 p.m. (or the appropriate equivalent in Central and Mountain time zones) for ‘candidate-centered discourse’ thirty days before an election.”⁷ Indeed, this proposal is one of the basic ingredients of the voluntary Public Interest Code of Conduct that Paxson has previously urged the Commission to adopt. Specifically, Paxson would propose that broadcasters receive public service credit by providing free five-minute prime time spots to federal legally qualified candidates to be run in the thirty days preceding an election. The provision of free prime time spots would represent a total of 150 minutes during the thirty days leading up to an election for the airing of broadcasts by federal candidates. Paxson would propose that the station choose the topics and the candidates, and the station would have flexibility in scheduling these vignettes within prime time hours. Stations would have the discretion to choose the formats for this discourse, subject to a minimum one minute duration for candidates to appear on-screen and an audio minimum of fifty percent of the airtime. The station also would have the flexibility in the production of these candidate spots. For instance, if the station did not produce these spots on its own, the candidates could submit their own videotapes, written reports, or audio tapes to the station in response to inquiries. In this manner, the station could provide a public service of

⁷ *Public Interest Obligations of TV Broadcast Licensees, Notice of Inquiry*, 14 FCC Rcd 21633, 21648 (1999) (“*Notice of Inquiry*”); *Charting the Digital Broadcasting Future: Final Report of the Advisory Committee on the Public Interest Obligations of Digital Television Broadcasters* at § III.6(b) (1998) (“*Gore Commission Report*”).

eliciting political discourse while retaining the freedom of choosing the content framework for the candidates' discourse.

During his recent speech, Chairman Kennard suggested that all stations carry the presidential debates.⁸ Paxson believes that the decision to carry such debates should be left to broadcasters. The choice to carry a presidential debate is a significant commitment that should be left to the station's discretion given the demographics served by the station and the station's general program focus. For instance, PAXTV offers a unique selection of family-friendly programming unduplicated by the other free over-the-air broadcast television or cable networks. Many community issues are addressed through this family-friendly programming rather than news programming. PAXTV also has no relationship with organizations to obtain a broadcast feed of the presidential debates. It should not be necessary for every station to carry the presidential debates, and it may even be preferable if some stations carry other programming at that time. For example, while other channels in the country are carrying the debates, PAXTV would take the opportunity to air programming for children. As a result, carriage of the presidential debates by all stations should not be necessary to serve the public interest.

C. The FCC Should Adopt A Voluntary Public Interest Code Of Conduct.

Paxson proposes that the television broadcast industry establish a written Public Interest Code of Conduct (the "Code") that licensees could choose voluntarily to accept or reject. In turn, the Commission would afford each station the opportunity in its license renewal application to certify that it in fact adhered to the Code during its license term. A station certifying compliance with the Code would be entitled to a presumption of renewal expectancy, similar to

⁸ Speech of Chairman William Kennard, "What Does \$70 Billion Buy You Anyway," Museum of Television and Radio, Oct. 10, 2000.

the manner in which the Commission currently affords a renewal expectancy to a station airing a weekly average of at least three hours of core children's programming throughout its license term.

No Commission licensee would be required to adhere to the Code. In applying for renewal of its license, a station who chose not to adhere to the Code would be able to demonstrate to the Commission that its operations – including both broadcast and non-broadcast activities – otherwise served the public interest, convenience and necessity with respect to its local community during the license term.

This approach would recognize licensees' public interest obligations and provide that the FCC, at renewal time, would be supplied with information the licensee deems appropriate to establish compliance with the Code and the licensee's obligation to operate in the public interest. The basic ingredients of the Public Interest Code of Conduct would include the following:

- During the thirty days prior to an election, television stations would provide for free a five-minute period each day between the hours of 5:00 p.m. and 11:35 p.m. for political discourse and for candidates to reach local voters. Stations would choose the candidates and races (federal, state and/or local) covered. In addition, stations would have the discretion to choose the formats for this discourse, subject to a minimum one minute duration for the candidates to appear on-screen and an audio minimum of fifty percent of the airtime.
- Television stations would provide programming explaining our civic responsibilities and political process. This information would be presented, designed, and structured so that it is accessible, available, understandable, and free.
- Television stations would provide programming reflecting and addressing the diverse interests of the viewers within their local communities – with emphasis on the particular cultures, heritages, individuality, and demographics of all segments of the local population.
- Television stations would serve their communities through involvement in local community activities such as sponsorship

of charity fundraisers, visits to schools, and on-air coverage of important events in the community (e.g., a local parade, a local high school football game). Stations also would serve their communities through the broadcast of public service announcements and children's, religious, educational, and cultural programming.

As Paxson explained in its Comments to the FCC's *Notice of Inquiry*,⁹ this voluntary system would yield demonstrable benefits for the public without abridging broadcasters' First Amendment rights and without unduly taxing the Commission's scarce resources.¹⁰ In this regard, Paxson noted that the Gore Commission also concluded that public-private initiatives would serve the public interest better than additional governmental oversight of the industry:

[This Commission] has favored, where possible, policy approaches that rely on information disclosures, voluntary self-regulations and economic incentives, as opposed to regulation.

. . . .

[H]aving the broadcast industry adopt a strong set of voluntary standards of conduct...would be a highly desirable step toward creating a digital world meeting the needs and interest of the American public.¹¹

In short, to promote the goals of a deliberative democracy, the government should rely whenever possible on the least intrusive means of achieving that goal – in this case, fostering disclosure of

⁹ Comments of Paxson Communications Corporation submitted March 27, 2000, *In the Matter of Public Interest Obligations of TV Broadcast Licensees Notice of Inquiry*, MM Docket No. 99-360, 14 FCC Rcd 21633 (1999).

¹⁰ The Commission's establishment of the Code presupposes that the Commission has confirmed that television stations have full mandatory carriage rights on multi-channel video programming distributors with respect to their free over-the-air, unduplicated multicast program services and any direct ancillary services contained in the broadcast signal. Without such carriage rights, the Commission simply cannot justify the imposition of increased public interest obligations on licensees whose very ability to serve their local communities is threatened.

¹¹ *Gore Commission Report* at 44, 47.

information, encouraging voluntary self regulation, and using economic incentives without abridging broadcasters' First Amendment rights.

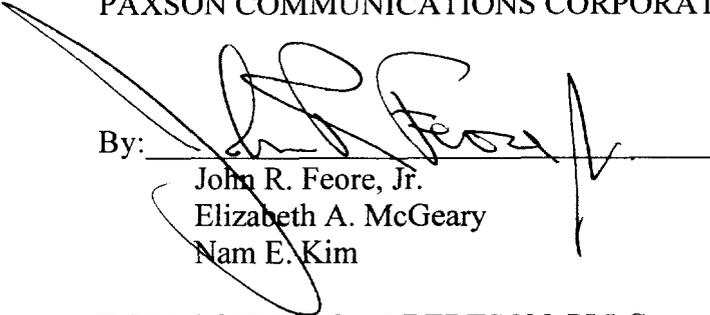
IV. CONCLUSION.

Paxson urges the FCC to permit broadcasters to be flexible in the provision of children's and general public interest programming and in the use of the DTV spectrum. Paxson encourages the FCC to consider non-content based means by which broadcasters may continue to serve the public in a world where the public is bombarded with multiple and diverse sources of information. The Commission also should adopt specific measures by which stations could creatively meet their public interest obligations. These measures would include the adoption of a schedule and quota of PSAs, the airing of political discourse during the thirty days prior to an election, and the establishment of a voluntary Public Interest Code of Conduct. These proposals would afford broadcasters flexibility in their choice of programming content, thereby honoring their First Amendment rights, and help to ensure their continued service to the public.

Respectfully submitted,

PAXSON COMMUNICATIONS CORPORATION

By:



John R. Feore, Jr.
Elizabeth A. McGeary
Nam E. Kim

DOW, LOHNES & ALBERTSON, PLLC
1200 New Hampshire Avenue, N.W.
Suite 800
Washington, D.C. 20036
(202) 776-2000

Its Attorneys

December 18, 2000