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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C.

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

MM Docket No. 00-167

In the Matter of

**Children's Television Obligations
Of Digital Television Broadcasters**

REPLY COMMENTS OF THE

MOTION PICTURE ASSOCIATION OF AMERICA, INC.

Two arguments offered by other parties regarding promotions and advertisements for upcoming programs and theatrical motion pictures – and the Commission's authority to impose regulations – merit a brief response by the Motion Picture Association of America, Inc. ("MPAA"). Generally speaking, parties agree with MPAA that governmental action would exceed the Commission's authority, transgress constitutional limits on the Commission's powers, and epitomize arbitrary agency action. However, the Center for Media Education and Morality in Media, Inc., suggest actions that ignore these limits.

The Center for Media Education ("CME") – while acknowledging that the television *program* ratings system is voluntary – states its belief "that these same

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voluntary standards should apply to promotions as well.”¹ MPAA in its comments has marshalled an array of arguments supporting its core contentions that the Commission would be overstepping the bounds of its authority in imposing a ratings regime of any sort on promotions. Particularly pertinent to CME’s position is the limited scope of the Commission’s authority under its specific mandate concerning television *program* ratings. Again, Section 551 of the Telecommunications Act of 1996 provided the Commission no authority to develop a ratings system applicable to *advertisements* and *promotions* for upcoming television programs and theatrical motion pictures. Furthermore, the Commission approved the *TV Parental Guidelines* with the explicit recognition that the *TV Parental Guidelines* required no ratings of individual advertisements and promotions.² Thus, whereas CME might “encourage” television stations to apply ratings to their programs *voluntarily*, any interpretation of its call as a request for governmental action would run afoul of the limits on the Commission’s statutory authority.

Morality in Media also urges a course of action flatly denied the Commission. It finds “nothing ... stipulating that once the Commission finds such a Voluntary Plan ‘acceptable to the Commission’ that it can never change it’s [*sic*] mind and find otherwise.”³ However, the Commission’s authority under Section 551(b)(1) has expired. Once the Commission approved the *TV Parental Guidelines*, Section

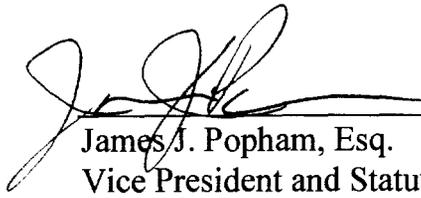
¹ Comments of the Center for Media Education *et al.*, MM Docket No. 00-167 (filed December 18, 2000) at 49.

² *Report and Order*, CS Docket 97-55, FCC 98-35 (released March 13, 1998) at ¶21.

551(b)(1) ceased to exist. At most, it was a contingent grant of authority to adopt ratings for television *programs* that never took effect. As stated in Section 551(e)(1), it was to take effect one year after enactment, but only if the affected industries had failed to establish an acceptable voluntary system. Because the industries did establish a voluntary ratings system, Section 551(b)(1) never took effect. Thus, the Commission has no remaining authority under Section 551(b)(1). The Commission may not, therefore, change its mind and impose any new and additional regulations based on Section 551(b)(1).⁴

The above-stated positions of CME and Morality in Media enjoy no support in the law. Therefore, they must be rejected.

Respectfully submitted,



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January 17, 2001

³ Reply Comments of Morality in Media, Inc., MM Docket No. 00-167 (filed January 10, 2001) at 6.

⁴ See *Report and Order*, CS Docket 97-55, FCC 98-35 (released March 13, 1998) at ¶4.

CERTIFICATE OF SERVICE

I, Jo P. Popham, hereby certify that I have caused copies of the foregoing “Reply Comments of the Motion Picture Association of America, Inc.” to be sent via By-Hand delivery, this 17th day of January, 2001, to the following:

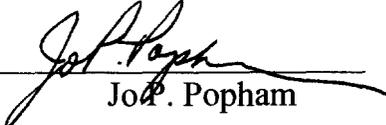
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