



November 14, 2007

Via ECFS

Marlene H. Dortch, Secretary
Federal Communications Commission
Office of the Secretary
445 12th Street, SW
Washington, DC 20554

Re: Notice of Ex Parte Presentation, MB Docket No. 07-148

Dear Secretary Dortch:

On November 13, 2007, the undersigned submitted an electronic mail to Rick Chessen, Senior Legal Advisor/Media Advisor to Commissioner Copps, addressing the above-referenced proceeding. The text of the electronic mail is attached hereto.

This letter is being provided to your office via ECFS in accordance with Section 1.1206 of the Commission's rules. Please direct any questions regarding this notice to the undersigned.

Sincerely,

/s/ _____
Malena F. Barzilai
Senior Counsel
Association of Public Television Stations
666 Eleventh St, NW, Suite 1100
Washington, DC 20001

Rick,

Lonna Thompson and I just wanted to follow up with you regarding Public Television's perspective on DTV consumer education requirements for broadcasters.

With regard to a PSA requirement, Public Television is primarily looking for flexibility to deliver on-screen consumer education in a manner in which we are able. As you know, our stations devote very little of their broadcast time to non-program material – about 3 minutes 12 seconds per hour vs. 15-20 minutes per hour for the commercial stations – and federal law requires that much of our limited non-program time be devoted to identification of underwriters.

Despite these limitations, Public Television stations intend to air an aggregate amount of on-screen education that at least equals what we understand Chairman Martin to have proposed – 60 seconds per day (approximately 30 minutes per month), ramping up to 180 seconds per day (90 minutes per month), divided among all dayparts. But it would help stations greatly if they have some flexibility in how they fulfill this requirement – for example, being able to count a one-minute spot or three-minute longer-form program toward the mandated amount. Public television stations plan to air spots of varying length as well as longer-form programming and, indeed, we feel that some longer-form programs are necessary to get beyond the basics on this complicated transition.

Thus, one possibility we have considered proposing includes the following requirements for Public Television –

- Through April 30, 2008, at least 60 seconds per day of on-air DTV consumer education, at variable timeslots, including at least 7.5 minutes (450 seconds) per month during the evening daypart;
- From May 1 through October 31, 2008, at least 120 seconds per day, including at least 15 minutes (900 seconds) per month during the evening daypart; and
- From November 1, 2008 through February 2009, at least 180 seconds per day, including at least 22.5 minutes (1350 seconds) per month in the evening daypart.

In addition, we are concerned about a crawl requirement for Public Television stations. Crawls are currently used by PBS and stations only in emergencies, and we fear that “crawl creep” will undermine the effectiveness of this tool. Furthermore, a crawl requirement will absorb limited station resources that would be better directed toward viewer outreach, an area in which PTV stations are uniquely suited to assist the FCC in its consumer education task.

I'm attaching a memo that expands on the PSA issue a bit further.

Thanks for your attention to this issue, and please feel free to contact me or Lonna if you have any questions.

Sincerely,
Malena

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Local Public Television Stations Need Flexibility Regarding On-Air Consumer Education Requirements

- According to published reports, the FCC is considering adopting final rules in its DTV consumer education rulemaking that might include the following requirements for broadcast licensees:
 - Through April 30, 2008, each station would air four PSAs of at least 15 seconds in length per day, each in a different daypart;
 - From May through October 2008, each station would be required to air eight 15-second PSAs, two in each daypart, plus four crawls, one in each daypart; and
 - Beginning in November 2008, the number would increase to 12 PSAs and 12 crawls, three apiece in each daypart.
- If these reports are accurate, the rules—especially the specific PSA requirements—threaten to be very burdensome for Public Television stations. Indeed, the FCC’s reported proposal would be more stringent than any suggested by Reps. Dingell and Markey in their May 2007 letter to Chairman Martin, or any introduced in Congress.
 - Senator Kohl’s bill, the counterpart of which was introduced in the House by Rep. Wynn, requires commercial broadcasters to air 60 seconds per day, with half of that in prime time, and excludes noncommercial stations from a PSA requirement.
 - Rep. Engel’s bill requires all broadcasters to air 120 seconds per day, with at least half between 5 p.m. and 11:35 p.m.
- Noncommercial stations devote much less of their broadcast time to non-program material than their commercial counterparts – an average of 3 minutes 12 seconds per hour vs. 15 to 20 minutes per hour for commercial stations. Federal law and rules require that much of the limited non-program time of public stations be devoted to identification of our many program underwriters. *See* 47 U.S.C. § 317; 47 C.F.R. § 73.1212(a).
- In spite of their limited non-program time, Public Television stations have pledged to air DTV Action Spots in daytime, primetime, and weekend time periods to produce more than three billion consumer impressions. PBS has estimated the value of this effort at \$50 million. In addition, recognizing that an effective consumer education campaign on this complicated issue must also entail more in-depth explanations, PBS and Public Television stations are developing and will air longer-form messages. Examples of spots and long-form programs that stations are already using are available at <http://www.kued.org/agc/>, a website at which stations share best practices.
- It is critical that any rules adopted by the Commission recognize these unique constraints and commitments by providing Public Television stations with sufficient flexibility in terms of both the frequency and form of the educational messages they offer their local viewers. Such an approach will ensure that Public Television stations can maximize the impact of their resources.
- Thus, we propose that the Commission revise its requirements, at least with respect to Public Television stations, to include the following:
 - Through April 30, 2008, at least 60 seconds per day of on-air DTV consumer education, at variable timeslots, including at least 7.5 minutes (450 seconds) per month during the evening daypart;
 - From May 1 through October 31, 2008, at least 120 seconds per day, including at least 15 minutes (900 seconds) per month during the evening daypart; and
 - From November 1, 2008 through February 2009, at least 180 seconds per day, including at least 22.5 minutes (1350 seconds) per month in the evening daypart.