



June 20, 2012

Ms. Marlene H. Dortch, Secretary
Federal Communications Commission
445 Twelfth St., SW
Washington, D.C. 20554

Re: Ex Parte Presentation in: *Children's Television Obligations of Digital Television Broadcasters*, MM Dkt. 00-167, and *Sponsorship Identification Rules and Embedded Advertising*, MB Dkt. 08-90

Dear Ms. Dortch:

I am writing in response to a June 8, 2012 letter from Angela J. Campbell, Counsel for Children Now, setting forth issues discussed in ex parte meetings on the two proceedings listed above. According to the letter, Children Now called on the Commission to adopt rules contemplated in the proceedings. Specifically, the group said the Commission should promptly adopt an enforceable rule against interactive advertising on children's programming and should clarify that product placement is not permitted in children's programming.

The arguments presented in the ex parte meeting, as set forth in the Children Now letter, propose preemptive solutions to imaginary problems. In that regard, they simply restate Children Now's position, which was thoroughly addressed on the record in the two proceedings. The Association of National Advertisers, along with a broad coalition of media and advertising companies and associations, filed extensive comments on the issues raised in these proceedings. See Reply Comments of the National Media and Advertisers, [*Empowering Parents and Protecting Children in an Evolving Media Landscape*](#), MB Docket No. 09-194 (filed March 26, 2010); Comments of the National Media Providers, [*Sponsorship Identification Rules and Embedded Advertising, MB Dkt. 08-90*](#) (filed Sept. 22, 2008).

The Children Now letter presents no new information to justify regulatory action by the Commission. To the contrary, it states that it "is not aware of any commercial interactivity on children's television programs at this time," but asserts that "it is only a matter of time before someone decides to test the waters." Its support for this supposition comes from trade press accounts of programs like *Mad Men* – decidedly not children's fare – using Twitter for commercial tie-ins and using product placement. It

also attaches an article from *The Hollywood Reporter* (“Why Kids’ TV is Scrambling to Stay Afloat”) to suggest that advertisers may feel pressure to use similar measures, but that article does not support the claims. It says, for example, that Nickelodeon is addressing the problem of ratings declines by producing more original programming (“One of the reasons we are putting so much new content on the air is we think kids will have an appetite for it and more great new stuff will bring them back to television.”). None of this supports the demand to adopt new rules governing childrens television.

New regulations always run the risk of causing unintended consequences, but the danger is especially high when rules are adopted to anticipate problems that have not materialized. As explained in the comments filed in these proceedings by National Media and Advertisers and by National Media Providers (representing a wide cross-section of the advertiser and media communities), the public interest also requires that the Commission take care not to undermine the economic base for advertiser-supported media. Regulating for the sake of regulation without any example of what the rules need to address certainly would distort the marketplace at the same time the Commission is seeking to promote universal access to broadband media. In this connection, the Commission also must recognize the limits of its jurisdiction over new media platforms.

Thank you for your consideration.

Sincerely,

A handwritten signature in black ink, appearing to read "D. L. Jaffe". The signature is fluid and cursive, with the first name "Daniel" and last name "Jaffe" clearly distinguishable.

Daniel L. Jaffe

Group Executive Vice President, Government Relations

C:

The Honorable Julius Genachowski, Chairman, Federal Communications Commission

The Honorable Mignon L. Clyburn, Commissioner, Federal Communications Commission

The Honorable Robert M. McDowell, Commissioner, Federal Communications Commission

The Honorable Ajit V. Pai, Commissioner, Federal Communications Commission

The Honorable Jessica Rosenworcel, Commissioner, Federal Communications Commission