



GEORGETOWN LAW  
INSTITUTE FOR PUBLIC REPRESENTATION

Hope M. Babcock  
Angela J. Campbell  
Brian Wolfman  
Directors  
Thomas Gremillion  
Anne King  
Laura M. Moy\*  
Margot J. Pollans  
Blake E. Reid  
Staff Attorneys

600 New Jersey Avenue, NW, Suite 312  
Washington, DC 20001-2075  
Telephone: 202-662-9535  
TDD: 202-662-9538  
Fax: 202-662-9634

October 3, 2012

Ms. Marlene H. Dortch, Secretary  
Federal Communications Commission  
445 12 St. SW  
Washington, DC 20554

*Re: Children's Television Obligations of Digital Television Broadcasters, MM Docket No. 00-167;  
Sponsorship Identification Rules and Embedded Advertising, MB Docket No. 08-90;  
Campaign for a Commercial-Free Childhood Petition for a Declaratory Ruling that a Program to be Aired by Nicktoons Violates the Children's Television Act and the FCC's Rules and Policies, MB Docket No. 10-190*

Dear Ms. Dortch:

On October 1, 2012, Eileen Espejo, Director of Media and Health Policy for Children Now; Cecilia Garcia, Executive Director for the Benton Foundation; and Cheryl Leanza, Policy Advisor for the United Church of Christ Office of Communication, Inc. met with Lyle Elder and Elizabeth Andrion of FCC Commissioner Julius Genachowski's office. These member organizations, along with the National PTA, American Academy of Pediatrics, and the American Psychological Association, form the Children's Media Policy Coalition. The Coalition was accompanied by counsel, Laura Moy of the Institute for Public Representation and Georgetown Law student Jessica Wang, and Dr. Dale Kunkel, Professor of Communication at the University of Arizona. The purpose

\* Admitted to the Maryland bar only; DC bar membership pending. Practice supervised by members of the DC bar.

of the meeting was to discuss how the FCC can better ensure that the needs of children's media are met and move forward on the open proceedings in the above-captioned dockets.

Children's Media Policy Coalition urged finalization of the Commission's tentative conclusion that interactive advertising in children's programs is contrary to the public interest. The Commission reached this tentative conclusion in its *Report and Order and Further Notice of Proposed Rulemaking* in Docket 00-167, released November 23, 2004. The Coalition noted that interactive advertising poses unique risks when used in children's programming. First, interactive advertisements raise privacy concerns, because they may entice children to disclose personal information to advertisers. Interactive advertisements could allow advertisers to circumvent the Children's Online Privacy Protection Act ("COPPA"), which prohibits them from collecting children's personal information online, by moving to another platform. Second, interactive advertising invites the practice of targeted marketing based on a specific child's behaviors and preferences. Third, interactive advertising presents the possibility of a one-touch shopping experience, in which children could instantly consummate an impulse purchase by pressing a single button. Parents might not even know of their children's purchases.

Children's Media Policy Coalition emphasized that the Commission's 2004 tentative conclusion was a commendably proactive decision. In the intervening years since that tentative conclusion was issued, television has become increasingly more interactive. The Coalition urged the Commission to finalize the rules restricting interactive advertising and embedded advertising in children's programs before they further develop into entrenched, pervasive practices. The Coalition stated that there is ample evidence in the record to support these restrictions, but it would not be opposed to updating the record should the Commission request such an update.

The Coalition also discussed the *Petition for a Declaratory Ruling* in Docket No. 10-190 regarding Skechers' program *Zevo-3*. Dr. Kunkel summarized the program's background, available in *Comments of Dr. Dale Kunkel* in Docket No. 10-190, filed October 26, 2010.

Children's Media Policy Coalition also distributed a copy of a letter sent from Children Now and the American Academy of Pediatrics to Chairman Genachowski on April 11, 2012, a copy of which is attached.

Respectfully submitted,

/s/

---

Angela J. Campbell  
Laura M. Moy  
Institute for Public Representation  
Georgetown Law  
600 New Jersey Avenue, NW  
Suite 312  
Washington, DC 20001  
(202) 662-9535  
Imm258@law.georgetown.edu

October 3, 2012

*Counsel for Children's Media  
Policy Coalition*

cc: Lyle Elder  
Elizabeth Andrion

American Academy of Pediatrics

DEDICATED TO THE HEALTH OF ALL CHILDREN™



**CHILDREN NOW**

Chairman Julius Genachowski  
Federal Communications Commission  
445 12th St. SW  
Washington, DC 20554

April 11, 2012

Dear Chairman Genachowski,

The American Academy of Pediatrics (AAP) and Children Now are writing to urge your leadership in addressing several media issues to help protect children and provide for a healthy media environment.

In your 2010 announcement of the FCC's "Children's Agenda for Digital Opportunity," several areas of priority for the Commission were highlighted. A priority stated in your announcement was that "Commission rules must be reviewed to see if they are keeping pace with new technologies – starting with the Children's Television Act. As the Commission seeks to address the opportunities for children in digital media, we request the FCC focus attention on the pending following children's media issues:

### **Unhealthy Food Marketing**

For the past several years, AAP and Children Now have prioritized reducing children's exposure to unhealthy food advertising and have worked to ensure that the children's media landscape evolves consistent with the goals of the Children's Television Act.

Addressing the role media companies have in marketing unhealthy food to children is a fundamental step for the Children's Television Act up to stay up to date with our children's modern media environment. Updating the FCC's 2005 tentative conclusion on interactive advertising is also an important part of keeping pace with new media (discussed in more detail below).

The recent White House Task Force Report on Childhood Obesity reinforces your declaration by insisting "the Act specifically authorizes the FCC to review and evaluate the advertising duration limitations, and to modify them in accordance with the public interest based on demonstrated need...the FCC could consider revisiting and modernizing rules on commercial time during children's programming."

The White House and federal public health agencies (e.g., Institute of Medicine, Centers for Disease Control, etc.) have demonstrated the need for addressing unhealthy food

marketing to children as an important part of the fight against childhood obesity. The media industry, however, has failed to specifically address these concerns or meet any of the following recommendations set forth by the White House:

- that media limit the licensing of their popular characters to food and beverage products that are healthy and consistent with science-based nutrition standards,
- that the media industry adopt meaningful, uniform nutrition standards for marketing food and beverages to children, and,
- that the media industry should develop uniform guidelines to ensure a higher proportion of advertisements shown on their networks and platforms are for healthy foods and beverages.

As media companies have failed to address the marketing of less healthy foods and beverages to children, the FCC should consider revisiting and modernizing rules on commercial time during children's programming.

### **Interactive Advertising**

In the 2009 FCC notice of inquiry, entitled *Empowering Parents and Protecting Children in an Evolving Media Landscape*, the Commission invited comments to update the record in the *2004 Children's Television Obligations of Digital Television Broadcasters* proceeding. It asserted that new forms of advertising "warrant scrutiny into how they impact children..." As noted in the Children's Media Policy Coalition's comments, "children are vulnerable to advertising regardless of the technology used to deliver it. Interactive advertising is likely to be even more influential with children, thus making the harms that have led to prior regulation of children's advertising even more pressing."

The American Academy of Pediatrics and Children Now have repeatedly articulated its support for restricting commercial interactivity during children's programming. We continue to eagerly await the Commission's action on the 2009 request.

Several other important matters are pending the Commission's action on behalf of children. We also await the Commission's conclusion and codifying of other important pending children's items. Declaratory rulings are needed on:

- the 2004 petition to deny license renewals against two Washington, DC area stations (WPXW, Manassas, VA and WDCA, Washington, DC) along with the 2006 petition to deny license renewal to Cleveland station, WUAB, for violations of the Children's Television Act educational programming requirements;
- the 2008 Notice of Proposed Rulemaking on product placement and product integration, initially requested in a letter sent by Rep. Edward Markey (D-MA) and Rep. Henry Waxman (D-CA).
- the 2010 petition on Sketchers' Program-Length Commercial for Children, *Zevo-3* as violating the Children's Television Act's advertising limits;

Addressing these important children's issues is central to the success of the FCC's Children's Agenda and to the creation of a healthy children's media environment for all children. The American Academy of Pediatrics and Children Now look forward to working with your office and the Commission to conclude these pending items and to promote a healthy, educational media environment for all children.