

**RETHINKING THE CHILDREN'S TELEVISION ACT  
FOR A DIGITAL MEDIA AGE**

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**HEARING**

BEFORE THE

**COMMITTEE ON COMMERCE,  
SCIENCE, AND TRANSPORTATION  
UNITED STATES SENATE**

**ONE HUNDRED ELEVENTH CONGRESS**

**FIRST SESSION**

\_\_\_\_\_  
**JULY 22, 2009**  
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SENATE COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

ONE HUNDRED ELEVENTH CONGRESS

FIRST SESSION

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## CONTENTS

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	Page
Hearing held on July 22, 2009 .....	1
Statement of Senator Rockefeller .....	1
Statement of Senator Pryor .....	3
Statement of Senator Begich .....	65
Statement of Senator Nelson .....	67
Statement of Senator Klobuchar .....	70

### WITNESSES

Hon. Julius Genachowski, Chairman, Federal Communications Commission ...	4
Prepared statement .....	6
Gary E. Knell, President and CEO, Sesame Workshop .....	18
Prepared statement .....	19
Professor Sandra L. Calvert, Professor of Psychology and Director, Children's Digital Media Center, Department of Psychology, Georgetown University ....	22
Prepared statement .....	24
John Lawson, Executive Vice President, ION Media Networks, Inc. on Behalf of The National Association of Broadcasters .....	26
Prepared statement .....	29
Cyma Zarghami, President, Nickelodeon and the MTV Networks Kids and Family Group .....	42
Prepared statement .....	44
James P. Steyer, CEO and Founder, Common Sense Media .....	55
Prepared statement .....	57



## **RETHINKING THE CHILDREN'S TELEVISION ACT FOR A DIGITAL MEDIA AGE**

**WEDNESDAY, JULY 22, 2009**

U.S. SENATE,  
COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION,  
*Washington, DC.*

The Committee met, pursuant to notice, at 2:30 p.m. in room SR-253, Russell Senate Office Building, Hon. John D. Rockefeller IV, Chairman of the Committee, presiding.

### **OPENING STATEMENT OF HON. JOHN D. ROCKEFELLER IV, U.S. SENATOR FROM WEST VIRGINIA**

The CHAIRMAN. This hearing will come to order.

And we will have some of our members coming. We just impeached a judge—

[Laughter.]

The CHAIRMAN.—so some may be emotionally upset, and they'll be a little bit slow getting here, but they will be here.

Let me make my opening statement. The Ranking Member, Kay Bailey Hutchison, is not here today, so if nobody else comes we'll go right to you, Mr. Genachowski, and then we'll see what happens from there. We've got lots of questions—

Mr. GENACHOWSKI. Great.

The CHAIRMAN.—and then we have another panel, terrific panel, behind that.

My approach to this, frankly, is not to start out controversially. I did that last year, because I am so put off by the whole concept of promiscuity and lasciviousness and all these things. And I'm, you know, a father and a grandfather of five and nine-tenths children. I care about that. And I've found out that this is very much of a First Amendment committee, and so we have to work carefully, but I am determined that we will eventually get to this.

Now I want to talk just basically about the Commission. And the Committee will talk about the Committee, I guess, in other sessions. But, be at ease. I am absolutely delighted to see you. Every—and I explain to people that just the very fact that you've been appointed is a testament to the President and his interest in the best people—like John Holdren, who you know. John Holdren was ready to retire, but he just couldn't stay away from the opportunity to do the Office of Science and Technology, and so here he is—science policy, et cetera—OSTP.

So, television obviously is a very, very powerful force in children's lives. Children in America typically watch between 2 and 4 hours of television every day. I try to not think of that just in

terms of my home, but homes where parents are both working, and the stress is on them, and whether to be sympathetic or not, and you sort of have to be, but then you have to think of the technology of, How do you handle all of this? And this is what I want to get into a bit today.

Stunningly, by the time they reach first grade—it has been a long time since I was in first grade, but I think that’s—what, 7 or 8 years old? That sound about right?

VOICE. Six.

The CHAIRMAN. Six. That sounds better. All right.

[Laughter.]

The CHAIRMAN. They have—well, that’s more dramatic. They have spent what amounts to 3 school years in front of the television set by the time they’re 6 years old. Three school years. And I have a hard time really even getting past that thought.

Now, let me be clear. When used for good, television programming can enlighten, entertain, and, indeed, teach. That can come from television itself, it can come from, you know, classic DVDs that go back and review history—the History Channel. I mean, there are so many ways that we can really be fundamentally enlightened by what comes across our screen, which is now, of course, much more than just our screen. But, when used for less noble purposes, it can expose children to indecent, graphic, frightening scenes, which children, in the manner of not just children, but all people, never really get over. I think this has had a coarsening effect on our children. I think it has had a coarsening effect on our society. I regret that. I wish I could do something about that, and it may be that, together, we can.

I think we have a right to be concerned, in other words. This is why, 20 years ago, Congress enacted the Children’s Television Act. Now, 20 years ago is a long time. This law, back then, reduced the commercialization of children’s programming, which was great. Less time on advertising, more time on programming. It also created a market for more quality—I hate the word, but I’ll use it—educational, informational programming for our youngest viewers. Very, very important. So, these are the good things, these are the policies we still want to promote, these are the values that we hold dearly to, today. This is what we look to in our children as they grow up, that they will be a new generation of leaders, with a set of values that matches what is required.

But, our media landscape has changed so dramatically during the last two decades. I mean, it’s just like a blink of an eye, and it’s a whole different world. So, we have a challenge. How do we take these values, and how do we apply them to a very different media universe that we’re faced with today—and, particularly, our children are faced with today, and have mastered, and are part of, they’re already comfortable with it, a world where television sets are only a part of the media mix, a world where a television screen is fast fusing with the computer screen, where cable channels have multiplied and young people view programs over their mobile phones? It’s hard for me to imagine, but I know it’s true, to see my son and his new wife reading *The New York Times* on an iPhone, on a Sunday morning.

Now, I'm suspicious of that. I want the paper in my hand, because I have this weird feeling that the iPhone is leaving out some of the context, that certainly all you get is what you have right in front of you. You can't skip back to some other page.

So, the way I see it, there are two needs here. First, there is a need to provide good media content for children. And, second, there is a need to protect our children from harmful content. To provide and to protect. That's it. And we've got to do them both.

This is why the Committee would like to explore, today, how well the Children's Television Act has worked, in the judgment of our head of the FCC, and how it can be updated to reflect new digital media requirements, and whatever else may occur to you, sir.

If we value what our children read, see, and hear, we need to hold discussions like this. If we respect parents and their need for tools to help monitor their children's viewing, we need to hold discussions like this. And if we believe that there is some content that is simply not suitable for children, we need to hold hearings and discussions like this.

Finally, it will come as no surprise to anyone in this room that I continue to have grave concerns about violence, over which you do have some say, and indecency, over which you have no say. I continue to believe that programming with gratuitous sex and excessive violence harms our children and, in a broader sense, degrades our culture, not only to us, but to the rest of the world. And the "rest of the world" part is becoming larger and larger.

But, this is not the central focus—having given this long speech—of today's hearing. So, let us now begin by identifying how we can work together to improve programming for children, in a general way.

So, I thank you, Julius, for being here. I thank the panel that will follow you, who are all experts, one of whom has a West Virginia background, who I'm very anxious to see. None of them, I know, have an Arkansas background.

[Laughter.]

The CHAIRMAN. But, we've got to do the best by our young viewers.

And so, that's my statement, and I now call upon Mark Pryor, who is our consumer guru. He does all the good things in this committee.

**STATEMENT OF HON. MARK L. PRYOR,  
U.S. SENATOR FROM ARKANSAS**

Senator PRYOR. Thank you, Mr. Chairman. There are a lot of folks who do good things.

Thank you for your interest in this, and always being a tireless advocate of protecting our children, not just on television, but in other media. And you are seen, obviously, as a leader on this, nationally, and we appreciate that very much.

Chairman Genachowski, it's great to have you here. Thank you for your public service. And I just want to thank you for bringing a new approach and, really, a new atmosphere to the FCC. And I look forward to hearing your statement, and look forward to asking questions.

Thank you.

The CHAIRMAN. The floor, sir, is yours.

**STATEMENT OF HON. JULIUS GENACHOWSKI, CHAIRMAN,  
FEDERAL COMMUNICATIONS COMMISSION**

Mr. GENACHOWSKI. Thank you. Chairman Rockefeller, Senator Pryor, thank you for inviting me here today to discuss the Children's Television Act of 1990 and its role in a digital media age. I applaud Chairman Rockefeller and the Committee for commencing this timely and important inquiry.

Mr. Chairman, your commitment to children, known by everyone through such provisions as the E-Rate, other initiatives, including those you mentioned today, is well known. The public appreciates it.

Senator Pryor, your commitment to this issue, including the Child Safe Viewing Act, is well known and appreciated, and I want to thank you, in particular, for your recent contribution of your staff member to my staff—

[Laughter.]

Mr. GENACHOWSKI.—an important step in revitalizing the FCC. So, thank you for that.

The historic role of this committee—the historic role that it has played with respect to children and TV, with contributions from so many of its members, is an important legacy to build upon for the future.

The Children's Television Act is landmark legislation, enacted by Congress in 1990 to serve the dual purposes of promoting educational and informational programming for children, and placing limits on commercial advertising to which kids are exposed. As the Committee revisits this Act after almost two decades, three points stand out, as I see it:

First, children remain our most precious national resource. It is as essential as ever to ensure that our kids are educated, healthy, and prepared for the 21st century, and that they are protected from commercial exploitation.

Second, television continues to have a powerful effect on our children, and broadcast television remains a unique medium, the exclusive source of video programming relied upon by millions of households even today, as we saw in the recent digital television transition. The Commission's responsibility to enforce the Children's Television Act remains vital.

Third, Senator Rockefeller, as you've said, much has changed since the Act was enacted in 1990. For instance, broadcasting has gone digital, offering new opportunities and new challenges. Multi-channel video programming has grown dramatically since 1990, significantly expanding the programming choices of viewers who can afford to pay for television. The Internet has vastly proliferated. Video games have become a prevalent entertainment source in millions of homes, and a daily reality for millions of kids. Mobile services have exploded, as you mentioned. In my written statement we have data and facts around all of this, but I think these trends are well—are very well known.

The bottom line is that, 20 years ago, parents worried about one or two TV sets in the house. Today, parents worry not only about the TV, but about the computer in the kitchen, the gaming console



in the basement, and the mobile phones in their kids' pockets. No wonder parents increasingly find themselves playing the digital media equivalent of a zone defense across this expanding playing field, facing an array of new challenges not contemplated 20 years ago.

Several of these issues are involved in an FCC examination, initiated by Senator Pryor, which is due at the end of August. That process, and the one launched today, Mr. Chairman, by this hearing, together reflect an appropriate and, I believe, widespread interest in the consequences for children and families of the new digital media landscape.

As Congress and the Commission review this changing landscape, there are a number of issues to explore. These include the quantity and quality of educational programming currently available; the ability of parents to find educational programming and other useful information; the capability of new digital technologies to better inform parental choices; the current state of advertising on children's programming, as well as other programming that has children in the audience; and an assessment of the new concerns and opportunities presented by the changing digital media world.

In exploring these and other issues, I believe certain goals and values endure:

First, the importance of education. It is as essential as ever to ensure that our children have all the tools they need to become valuable members of our economy and democracy.

Second, the importance of protecting children. Video content for our Nation's kids should not treat them as little consumers. Guarding against inappropriate marketing to children is as vital today, in the digital era, as it was 20 years ago, when Congress limited commercial advertising to kids in the Children's Television Act.

Third, the importance of empowering parents. Parents should have access to a full range of information and tools in exercising their essential responsibilities.

And fourth, the importance of recognizing the important, varied, and appropriate roles of the government, parents, and the private sector in this effort. Government and the private sector both have vital roles to play in helping parents and protecting the health and well-being of children, while honoring and abiding by the First Amendment.

I'm hopeful that the evolving media landscape will produce innovation and new business models to increase the amount of quality programming, and educational programming, available to children, and enhance the ability of parents to pick and choose.

I'm hopeful that all providers of video programming will apply their creative talents to meeting their responsibilities and obligations to the American public. Studies show that television—like Sesame Street, Sprout, and others—can be a force for good, and that positive public images and educational messages can affect behavior in healthy and productive ways.

We also know that public service announcements have had real benefits, like reductions in teen pregnancy and drug use by children. This is a time for all providers of digital content to ask themselves, "Are we acting responsibly, in view of our broad civic obligations?"

I also believe that Congress and the FCC must remain vigilant. Given the importance of the enduring goals underlying the Children's Television Act, and the significant changes in the marketplace and technology, I believe that the FCC should, and it will, conduct an inquiry into how the FCC can best protect children and empower parents in the digital age.

I've directed FCC staff to begin that process, and I will work with my colleagues on the Commission to launch such an inquiry, to refresh the agency's record and gather the necessary facts that will inform decisions on how best to promote, in a digital media world, the critical goals that animate the Children's Television Act. The inquiry will address both new concerns and new opportunities presented by the changing digital media world, and it will be a resource for Congress as it examines these issues.

Meanwhile, I intend for the agency to take concrete action where appropriate. One such area involves interactive advertising on digital TV. Five years ago, the Commission reached the tentative conclusion for DTV that, absent a parental opt-in, it should prohibit interactivity during children's programming that connect kids to commercial material.

I believe that the versatility of digital television will provide new and beneficial economic opportunities to broadcasters—a critical goal, especially in this time of economic challenge. At the same time, protecting kids from inappropriate commercialization remains an essential objective of the digital TV era. While, of course, the Commission will study the record fully, at this point I'm inclined to agree that the agency should make its tentative conclusion final, and say that interactive ads directed at children are off limits, without an opt-in by parents.

One more action step: I believe the FCC itself can be a part of the solution to the issues we're discussing today, and I have directed the FCC staff to revamp, as soon as possible, the children's TV portion of *FCC.gov*. There is useful information, hidden deep in the site, about educational programming provided by broadcasters. It's hard to find, it requires a lot of clicks, but eventually there's information there; although even when it's there, it's not presented in the way that's most useful to parents and others interested in identifying and finding educational programming. That kind of information, other relevant information for parents, should be easier to find, and easier to use. My goal is for the FCC to have a model government website for parents and children.

In sum, I commend the Chairman for commencing this crucial and essential examination of children and media in the digital age, and I look forward to answering your questions and working with the Committee.

[The prepared statement of Mr. Genachowski follows:]

PREPARED STATEMENT OF HON. JULIUS GENACHOWSKI, CHAIRMAN,  
FEDERAL COMMUNICATIONS COMMISSION

Good afternoon Chairman Rockefeller, Ranking Member Hutchison, and members of the Committee. Thank you for inviting me here today to discuss the Children's Television Act of 1990 and its role in a digital media age.

I applaud Chairman Rockefeller and the Committee for commencing this timely and important inquiry. Mr. Chairman, your commitment to children through such provisions as the E-rate and other initiatives is well-known; the public appreciates

it. Moreover, the historic role this Committee has played with respect to children and TV, with contributions from so many of its members, is an important legacy to build upon for the future.

Since the Children's Television Act ("the Act") was passed in 1990, an array of new choices—direct broadcast satellite, Internet-based video, mobile services, video offerings from telephone companies, and video games—have joined broadcast and cable television as a daily reality for millions of American families. Cable has grown substantially since 1990, and of course broadcasting has now gone digital.

Much has changed since 1990, but much abides.

Broadcast television remains an essential medium, uniquely accessible to all Americans. And the core concerns that prompted the Children's Television Act endure, particularly the effect of media on our children.

For these reasons, I believe an examination of the Children's Television Act in light of the current marketplace and technologies merits the attention of both this Committee and the Commission, and I look forward to working closely with the Committee as it proceeds on its work in this area.

The Children's Television Act is landmark legislation. It was enacted by Congress in 1990 to serve the dual purposes of promoting educational and informational programming for children and placing limits on commercial advertising to which children are exposed while watching TV.

In order to increase educational and informational content, the Act requires the Commission, when considering a license renewal application from a television broadcaster, to gauge the extent to which the broadcaster has served the educational and informational needs of children. The current FCC guideline for expedited renewals of broadcast licenses is for broadcasters to air at least 3 hours per week of core educational and informational children's programming. In addition, broadcasters are also required to prepare, place in their public inspection files, and file with the Commission, a quarterly Children's Television Programming Report identifying their core programming and other efforts to comply with their educational programming obligations. Finally, in order to assist parents in finding educational and informational programming, broadcasters must display an E/I symbol throughout the entire program.

The second key feature of the Act—limiting commercial advertisements to children—applies to both broadcasters and cable operators. The Act requires that commercial television broadcasters and cable operators limit the amount of commercial matter aired during children's programs to not more than 10.5 minutes per hour on weekends and not more than 12 minutes per hour on weekdays.

Congress passed the Act because it believed that television has the power to benefit the media lives of children. The Senate Committee Report at the time noted: "There is a great deal of evidence that television can effectively teach children. . . . Television programming can make an important contribution to education at the national level, because television is accessible to all Americans. . . . It is well documented that television programming can be an effective way to teach children and to motivate them to learn." [S. Rep. 101-66, Nov 22, 1990]

Experience has confirmed that educational and informational fare on television can help prepare toddlers for school and can be a powerful complement to the classroom experience. Studies have shown, for example, that programs such as "Sesame Street" enhance attentiveness and perceptual abilities in young children. Children's television can also have beneficial effects on the social, emotional and physical development of our children.

Despite all of the benefits educational television provides youngsters, Congress determined in 1990 that market forces were not producing a sufficient amount of children's educational and informational programming on commercial television and that government action was needed. Congress reminded broadcasters of "the public interest responsibility of individual broadcast licensees to serve the child audience" and concluded that "total reliance on marketplace forces is neither sufficient nor justified to protect children from potential exploitation by advertising or commercial practices." [H.R. REP. 101-385 at 6, 1990 U.S.C.C.A.N. 1605, 1610]. Because broadcast television was the primary—and only freely available—means for families to receive video content, the programming goals for children were made requirements of broadcast television licensees, which use the public's airwaves.

In addition, Congress was concerned about excessive advertising to children, particularly since young kids have difficulty distinguishing between programming content and promotional advertising. Provisions addressing this concern extend to cover cable operators in addition to television broadcasters.

As the Committee revisits the Act after almost two decades, two initial points stand out:

First, broadcasting remains an essential medium.

Broadcasting is still the exclusive source of video programming relied upon by millions of households in the country, and it serves as a very significant source for millions of others. The Commission's responsibility to enforce the Act with respect to broadcast licensees remains vital.

Second, much has changed. For instance:

- Multi-channel video programming has grown dramatically, significantly expanding the programming choices of viewers who can afford pay television. For example, in 1990, broadcast TV represented 77 percent of total TV viewership, while today it is 41 percent. In the same period, satellite TV rose from non-existent to reach 27 percent of TV households. Overall, pay TV today represents upwards of 83 percent of all television households. Children are watching more cable and satellite TV now than they did two decades ago, and cable and satellite TV include some high-quality educational and information kids programming, including Sprout, Noggin, and other cable networks.
- The Internet has vastly proliferated, with younger Americans as the leading edge. A recent Nielsen survey reports that kids from two to 11 years of age are spending 63 percent more time online than they did 5 years ago. Meanwhile, video on the Internet is expected to grow rapidly. For example, a recent report noted that by 2013, global online video will represent 60 percent of consumer Internet traffic—up from 32 percent this year.
- Video games have become a prevalent entertainment source in millions of homes and a daily reality for millions of kids. According to one study, 65 percent of American households now play video games, while another found that 97 percent of teens play video games on a computer, game console, or mobile device.
- Mobile services have increased significantly, with mobile devices becoming more and more commonplace for kids. In 1990, there were only 5.3 million cell phone subscribers in the U.S. Today there are over 270 million. Mobile data of all sorts will likely skyrocket in coming years. One report suggests it will double every year through 2013, jumping 66 times from 2008. Third- and fourth-generation mobile wireless services make video programming available virtually anywhere a wireless signal can reach. Video programming can now be seen on many wireless phones or PDAs. Texting, often with pictures attached, has become a principal pastime of many of America's youth.

These are all elements of the digital revolution we have seen over the last two decades—with digital most recently coming to broadcast television itself. Now, instead of a single channel of programming, a full-power broadcaster can 'multicast' as many as four or five streams. Digital transmission also creates possibilities for interactive programming that are just beginning to be explored, and that may create its own opportunities and issues.

Twenty years ago, parents worried about one or two TV sets in the house. Today, parents worry not only about the TV in the den, but about the computer in the kitchen, the gaming console in the basement, and the mobile phones in their kids' pockets.

No wonder parents increasingly find themselves playing the digital media equivalent of a "zone defense" across this increasingly wide playing field, facing an array of new challenges not contemplated twenty years ago.

Several of these issues are involved in an examination the FCC is currently conducting as part of a report requested legislatively, initiated by Senator Pryor, due at the end of August. That process, and the one launched by this hearing, together reflect an appropriate and I believe widespread interest in the consequences for children and families of the new digital media landscape.

As Congress and the Commission review this changing landscape, there are a number of issues to explore. These include the amount and quality of educational programming available in the changing marketplace; the ability of parents and others to find educational programming as well as reviews, recommendations and other useful information that can now be provided through digital technology to better inform parental choices; the current extent and nature of advertising on children's programming as well as other programming for which children are in the audience; and an assessment of the new concerns and opportunities presented by the changing digital media world.

As these and other questions are explored, I believe certain goals and values remain constant.

First, the importance of education. It is as essential as ever to ensure that our children have all the tools they need to become valuable members of our economy and democracy. Educational video and other digital content can play a very impor-

tant role in that. Also, in a digital world, digital media literacy programs can play an important role, assisting children to make wise media decisions as they grow older and more independent.

Second, the importance of protecting children. They are our most cherished, valuable resource. Video content for our Nation's children should treat them as such and not as "Little Consumers." Guarding against inappropriate marketing to children is as vital today as it was twenty years ago when Congress limited commercial advertising to kids through the Act.

Third, the importance of empowering parents. Parents should have access to a full range of information and tools in exercising their essential responsibilities. They should easily be able to find those tools, to learn about programming choices, and to take action they deem appropriate. In a digital world, technology can and should be part of the solution.

Fourth, the importance of recognizing the appropriate roles of the government, parents, and the private sector. Government has a vital role to play in helping parents and protecting children, while honoring and abiding by the First Amendment. The private sector has real responsibilities in this area—and, potentially, opportunities. I'm hopeful that the evolving media landscape will produce innovation and new business models to increase the amount of educational programming and content available to all children, and enhance the ability of parents to pick and choose.

To conclude, although the digital media landscape has changed dramatically since the adoption of the Children's Television Act, the core principles endure. It is appropriate to recognize the economic challenges faced by many broadcasters, especially in the current economic environment. But enforcement of the Children Television Act remains essential, even as it is equally essential that we contemplate a new children's media policy for the digital age. I commend the Chairman for commencing this crucial and essential examination of children and media in the digital age. I look forward to answering your questions.

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#### APPENDIX

##### **FCC Implementation of the Children's Television Act of 1990**

*Educational and Informational Programming.* The CTA requires the Commission to consider, during its review of television stations' license renewal applications, whether commercial television licensees have served the educational and informational needs of children through the licensees' overall programming, including programming specifically designed to serve such needs. In 1991, the Commission adopted rules to implement the CTA's educational programming mandate, concluding that "programming that furthers the positive development of the child in any respect, including the child's cognitive/intellectual or emotional/social needs, can contribute to satisfying the licensee's obligation to serve the educational and informational needs of children." At that time, however, the Commission chose not to quantify that obligation.

In 1996, the Commission concluded that its initial regulations implementing the CTA had not been fully effective in prompting broadcasters to increase the amount of educational and informational broadcast television programming available to children. Accordingly, the Commission issued new rules, adopting a definition of "core" children's programming and establishing guidelines for processing broadcasters' renewal applications as they relate to children's programming. Under these guidelines, a broadcaster can receive staff-level approval of the CTA portion of its renewal application if it aired at least 3 hours per week of core children's programming. Core programming is defined as programming that has as a significant purpose serving the informational and educational needs of children, is at least 30 minutes in length, and is aired on a regularly scheduled, weekly basis between the hours of 7 a.m. and 10 p.m. Core programming must be identified as such when it is aired and must be listed in children's programming reports in the station's public inspection file. The educational and informational objectives and the target child audience of core programming must be specified in writing in these programming reports.

Additionally, the rules adopted in 1996 provide public access to information about the availability of core programming, including a requirement that children's programming be explicitly identified in information supplied to the publishers of program guides and listings. Broadcasters are also required to prepare, place in their public inspection files, and file with the Commission, a quarterly Children's Television Programming Report identifying their core programming and other efforts to comply with their educational programming obligations.

The advent of digital television promised new opportunities for broadcasters, including high definition TV and multicasting, and the Commission set out to ensure that children would benefit from the additional flexibility and capacity inherent in digital technology. In a *2004 Order*, the Commission adopted new children's television rules that, among other things, increased the core programming benchmark for digital broadcasters in proportion to the increase in free video programming offered by the broadcaster on multicast channels. For example, a station that provides one 24-hour stream of free video programming in addition to its main programming stream would be required to air an additional 3 hours of core programming per week to meet the processing guidelines for staff level approval of its renewal application. In order to assist parents in finding educational and informational programming, this Order also required that all core programming carried on commercial and noncommercial broadcast stations display an E/I symbol throughout the entire program.

The *2004 Order* included additional changes and generated substantial controversy. Both children's advocates and members of the broadcast and cable industries filed petitions for reconsideration of and court challenges to the Order. These parties ultimately negotiated a joint proposal to resolve their issues and submitted it to the Commission. After putting the proposal out for public comment, the Commission adopted a *Second Order on Reconsideration and a Second Report and Order*. This *Second Order* affirmed the proportional increase in the weekly, 3-hour core programming benchmark adopted in the *2004 Order*, and clarified restrictions regarding program repeats.

When the Commission adopted the core programming benchmark, it attempted in the definition of core programming to provide licensees with clear guidance regarding what is required, and to be as objective as possible to avoid injecting the Commission unnecessarily into sensitive decisions regarding program content. Nonetheless, when necessary, the Commission must step in. In 2007, the Commission entered into a consent decree with Univision to resolve petitions to deny filed against a number of that broadcaster's then-pending license renewal applications. Petitioners alleged that the stations involved had failed to comply with the children's programming rules because the programs relied on by the stations as "core" did not serve the educational and informational needs of children. This consent decree resulted in a voluntary payment in the amount of \$24 million and a compliance plan to ensure future adherence to the CTA.

*Commercial Time Limits.* The CTA also set commercial time limits, which protect children from the harmful effects of advertising, while at the same time allowing broadcasters to earn revenue to help support producing quality children's programming. Specifically, the CTA requires that commercial television broadcast licensees and cable operators limit the amount of commercial matter aired during children's programs to not more than 10.5 minutes per hour on weekends and not more than 12 minutes per hour on weekdays.

The Commission's 1991 implementing Order incorporated the statutory time limits into the Commission's rules and reaffirmed and clarified the Commission's "separation," "program length commercial," and "host selling" policies. The separation policy aids children in distinguishing advertising from program material by requiring that broadcasters separate the two types of content by use of special measures, sometimes known as "bumpers." Under the program length commercial policy, an entire program is counted as commercial time whenever a program associated with a product includes commercials for that product. Similarly, under the host selling policy, the whole program is counted as commercial time whenever program characters or show hosts are used to sell products in commercials during or adjacent to the shows in which the characters or hosts appear.

In 2004, the Commission changed these rules as well to account for the transition to DTV, applying the commercial limits to all digital video programming, whether aired on a free or pay digital stream. The *2004 Order* modified the rules regarding commercial limits in a number of respects, some of which were further modified in 2006 following the joint proposal from industry and advocates. For example, the Commission restricted the display by broadcasters and cable operators of the addresses of Internet websites that contain commercial matter during children's programs and during promotions that appear in or adjacent to children's programs.

Finally, the Commission revised the definition of commercial matter to include promotions for any television programs or video programming services other than educational and informational programs or other age-appropriate programming. This was done to ensure that all promotional material aired during commercial blocks will be appropriate for the child viewing audience.

The Commission has worked to enforce these commercial limits. Since 1996, the Commission has issued Notices of Apparent Liability and entered into consent de-

crees totaling more than \$4.4 million for violations of the commercial time limits and public file requirements.

The CHAIRMAN. Thank you.

What would you feel about a little red button, on the TV monitor, which a child could push, or a child's parent could push—just a button, a little button, just sitting right up there, bright red—and you push it, and you find out how what is to follow is rated, in terms of family values and things of this sort?

I think—was it the Pew Charitable Trust that came out and showed that 16 percent of people know how to work the V-Chip—you know, all the stuff where you can—I mean, my own—I hate to embarrass them, but there are a couple of fellows sitting behind me, and ladies, who can't work it themselves, OK? Now—and that includes the Chairman.

Easy ways to make people—to empower people to make decisions about what they're about to see. Easy ways for children. Now, how do you make children, if they see that it's not rated very well, find appropriate programs that will entice them? And I can't answer those things. But, I'm looking for a way to solve our problems in a family-friendly way which works.

OK. Enough of that. The Children's TV Act is, as we've said, two decades old. The technology has changed, indifferent to what's a broadcast channel, what is a cable channel. Everything has sort of gone under the broadcast role, because that's where we were back then. They watch programming over the Internet, they anticipate the future fusion of television screening and the computer screen; in increasing numbers, they use mobile phones—all of which we've talked about.

But, the bulk of the Children's Television Act really does only apply to broadcasting. It's a function of 20 years ago. While the advertising restrictions apply to children's programs on both broadcast and cable, the 3-hour rule is only for broadcasting. So, the law is fairly narrow in its scope and broadcast-centric in its focus.

So, the question: Does this limitation make sense today? Should we only be concerned about children's interaction with media when it occurs over the airwaves? Or do all these other new forms of media, and new ways of watchdogging programming do—does that also merit our concern, if there's a way of making that happen?

Final question: what do you believe the FCC or the Congress should do to update the Children's Television Act so that the law better reflects the digital media world our kids know today?

Mr. GENACHOWSKI. Senator, in some ways we have two sets of parents in the country. We have parents who receive both broadcasting and cable, and parents who receive just broadcasting. Broadcasting-only is still the prevalent form of distribution in millions of homes—roughly 15 million homes, I think—and for that reason, I think, making sure that broadcast television continues to provide quality educational programming for children is important.

With respect to cable, parents who receive both kinds of programming in their home, I think, are most interested in making sure that, across the array of channels that are coming into the home, they have choices. And there is some quality programming on cable.

I suspect a big part of the frustration that parents have with respect to cable is the first issue that you mentioned, which is, How do we find it? What tools do we have to both identify quality programming for our kids—depending on their age, their level of interest? How do we exercise the control that we, as parents, want to exercise, if there are certain things that come into our home that we don't want our kids to see?

To your earlier point, where you started, I'm an optimist on the power of technology, if it's unleashed in this area, to empower parents. I think we should think big, and we should expect big things from innovators, entrepreneurs, and the media industry. We should have a world where if a parent has a 6-year-old who is doing great on math but has vocabulary challenges, that a parent can say easily, Where can I find programming that's high quality and that will help with vocabulary, or help with history, or help with math? It should be easy to find—

The CHAIRMAN. Which has to do with the website.

Mr. GENACHOWSKI. Which has to do with the website. It may also have to do with the forms of distribution that are coming into the living room.

The fact that broadcasting is now digital is a significant fact. It should, over time, allow for more empowerment, more choices, through the television in the living room, than there used to be. I think we're at the beginnings of that. And one of the reasons I'd like to see the FCC do an inquiry into the—in this area—is to ask exactly these questions.

One, what is the state of the marketplace now? The FCC could use much better data on what's actually going on. And second, what are the tools that are available now? Some of this, we'll be addressing in the report that the Senate has requested, but that'll be a status report and, I think, the beginning of this inquiry. What are the ways that we can empower parents to make choices of the sort you've identified?

The CHAIRMAN. I think we should maintain, since there are only three of us here—I mean, talking—so, I think we should sort of be loose on our restrictions. I crushed the 5-minute rule in my opening statement; adhered to it precisely in my questions; and am dissatisfied with myself on both accounts.

[Laughter.]

The CHAIRMAN. So I present to you, now, Senator Mark Pryor. Senator PRYOR. Well, thank you, Mr. Chairman.

I want to thank you for mentioning the Child Safe Viewing Act, and, you know, hopefully, some good will come of that.

And I actually encourage you to think about what Chairman Rockefeller said a few minutes ago about a button, either on the TV set or the remote control, or both, because I think it's an interesting concept, that you could almost get a status report of what you're watching, and hit the button, and it would come up with the ratings, and how it's rated. And that would be very—a useful tool for parents, a very quick, easy tool for parents.

But, also, it would bring awareness, to anybody that's paying attention, that the television set does have the V-Chip technology in it. And it would probably prompt millions of parents to go in and set the settings that I think the vast majority right now probably



don't even know are in there, but—or if they do, they just don't take the time to set it up.

So, I just—as you're going through your process, I think you ought to at least consider that as an option, and there may be some good technology out there that may make a big difference.

Another concern I have, and this is just the changing nature of technology, is the fact that our children now have access to video streaming, just—over-the-air broadcasts, all kinds of media, Internet, through their cell phones, through their mobile devices. And to me this just mushrooms the challenges that we have, because now, even if we are parents who try to pay attention and either set up our cable or satellite box, or we try to do the V-Chip on our television, or all of the above, if our child gets a telephone that has that capability, all of a sudden the entire Internet can be open to them. Does the FCC have any plans to look at that and try to work on that from the parents' perspective, as well?

Mr. GENACHOWSKI. Yes. The first thing, Senator, is, in response to the Child Safe Viewing Act, we'll begin the process of cataloging the tools that are available, and identifying what's available to parents now.

I think, as part of the, sort of—the companion inquiry that I'm envisioning, we should ask all of these questions about this changed landscape. I couldn't agree with you more. You know, we all—when I grew up, it was a handful of broadcast television signals in the home. It was—my parents had a hard job, for many reasons, but this part of it was—they knew when I was watching TV and when I wasn't watching TV, and it was relatively easy to have rules.

We all have experiences now, with our children, where the landscape is vastly different, and you have to think about the mobile phone. We want our kids to be on computers, to have access to information. More and more schools require kids to be on computers to do their homework. It opens vistas to education that we haven't seen before. At the same time, we need to make sure—parents are concerned about, How do I make sure that while my kids are doing their homework, they're not accessing other kinds of information that are there?

It's in our collective interest to give parents confidence that—and tools—to exercise the responsibilities that they want. I don't—I think there's no—every parent wants more and better quality programming across all media. No parent wants their kids exploited. And they want simple, easy-to-use tools that can help them exercise their choices. They prefer to do it themselves, and not have the government do it for them. And I think one of the things we can do with this inquiry is take a very hard look at what we can do to prompt innovation that I think parents want.

What is the reason why there are more and better filtering tools on the Internet than there is with respect to television? Let's ask that question. Let's understand why that is. And let's see whether there are things that can be done to increase the level of innovation on all distribution platforms.

Senator PRYOR. Right. Let me also ask, while I have just a minute here, and that is—as I understand it, in 2007 the FCC began an inquiry about—you know, in response to whether edu-

cational and informational programming actually had any significant educational value. And you may not know, because you're new there, but do you know the status of that, and when the FCC will complete this review?

Apparently, Dale Kunkel recently released a study that highlights this fact, that a lot of programming that may be called "educational" or "informational" really doesn't have any educational value.

Mr. GENACHOWSKI. Yes. It's a concern that I've heard, and that I share. I don't have a timetable to share with you today on when the Commission will address it. I do think it's in everyone's interest for broadcasters, who have to comply with the Act, to understand what the rules are, so that there are no surprises.

Senator PRYOR. Thank you, Mr. Chairman.

The CHAIRMAN. Thank you.

Carrying on—the distinguished Chairman of the Consumer Subcommittee, who really does do an incredible amount of good work around here—I mean, whatever it is, he takes it on.

My wife works for a Washington public television station, and you get the whole routine of children's programming. And one of the things, as I watch my grandchildren—I mean, the last several weeks has been a real education for me, because it has been a while since I've been around grandchildren. I watch them very closely, and I watch what they watch, and, boy, are they all over the place. And the oldest one is 4, and the second-oldest one is 1-and-a-half, and they've just mastered all of it. And it's just—it's amazing.

And I'm thinking to myself, well, I mean, if you've got, like, Mr. Rogers, when he was around, and you've got Sesame Street, and they're around, and you've got all of these things, which have worked, traditionally, because they're considered safe and confidence-building, and they buy the little copies and products and—you know.

I have absolutely no idea if, as generations are able to begin—and, granted, older than my grandchildren—to do all these multimedia convergences—whether the standard of 20 years ago, about what children should see and can hear and watch and learn from, get excited by—whether it still works, but, going right after Mark Pryor's question, whether it advances, according to what is appropriate these days, their knowledge.

Mr. GENACHOWSKI. It's a good question. I grew up with Sesame Street and Zoom and other programs that I thought were great programs for the time. I'm sure if the generation before had seen those programs, and Oscar and Elmo jumping around, they wouldn't quite understand it. And every generation of kids finds different forms of entertainment compelling.

I'm glad Gary Knell is here and, I think, he will be able to address these questions with respect to Children's Television Workshop, and Sesame Street 2.0.

I'm not a programmer, and I don't pretend to know what kind of quality and educational programming will most attract viewers. I do believe that there are—that our creative talent can continue to develop high-quality educational programming that meets the evolving tastes and interests of children in a way that's consistent

with standards that don't change: quality, education, giving parents something to choose for their kids that they actually like. I don't think that, if we think of this as medicine that our children have to take, we'll accomplish much. Kids won't watch it, and we'll have programming on TV that is like the tree falling in the forest. But, I do think we have enough creative talent that, if we can create platforms, create demand, and create choice, we can make progress.

Let me add one thing to that. I think we have creative talent. I think we have demand on the part of parents. And I'm hopeful that technology can now bridge that, so that our creative talent can supply the demand for parents in a way that I hope, in a digital world, are supported by strong business models. And it'll—I look forward to hearing Gary Knell on this topic.

The CHAIRMAN. OK. The FCC—this whole question of, How do you stimulate the production of educational programming for our youngest?—it's really—I've just got to say, at this point, it's a profoundly important question, to me. I almost, sort of, translate it into where our Nation is headed. And if we do this right, we can make an enormous difference. And if we do it wrong, we will get into the—all the kinds of violence and things, which is easy to attribute to TV, movies, or whatever. But, it is enormously important. It is enormously important in what it does to the American image overseas. They see things they cannot believe, and our kids are taking them for granted, and letting it roll off their back or letting it sink in, in unfortunate ways.

Now, the broadcasters were required by the FCC to do something called the 3-hour rule. And those 3 hours had to be dedicated to programming which is really good for children. And it was designed for children. And it was not meant to deviate from their erudition. Do you believe the 3-hour rule is working? Under the Children's Television Act, the FCC has the authority to increase the 3-hour rule, unilaterally, and require more. Well, I guess I just said that. Is that something the agency would consider doing?

Third, since the rule was adopted, the FCC has done, quite frankly, over recent years, quite frankly, very little to enforce it, and has very little—and has had very little interest in it. What can the FCC do better to monitor the quality of programs that are aired, to comply with this sort of 3-hour rule?—if you can figure out where the 3 hours is. See, that's my problem. It used to be that kids did their homework starting at 7 o'clock or 6 o'clock, and went til 9 o'clock, so it was 7 o'clock to 10 o'clock. Now it's my impression that a lot of kids start doing their homework at 10 o'clock, so they're watching all the parental stuff, which isn't subject to any of this muster. So, ponder a little on that, will you? Out loud?

Mr. GENACHOWSKI. I'd be happy to.

The—let me start with your last point, which is, there have to be things that the FCC can do to give the public easy-to-use access to the information the FCC has. An important part of the thinking behind the Children's Television Act, in its original implementation, was the public check on what broadcasters would be doing. And so, there are rules around identifying programs on TV as educational/information, putting the information in broadcasters' pub-

lic files. Those rules, I think, made sense for the technologies, as they existed when the rules were implemented.

We're now in an Internet world, where this information should be very easily accessible to parents. As I mentioned in my opening remarks, I've directed the Media Bureau at the FCC to revamp the portion of the FCC website that lists the shows. They should be easily accessible to parents. I'd like to think that the original philosophy of the Act, which is that sunlight can help make sure that we get quality programming—it at least needs a fair test. And it's not getting one now.

With respect to your broader question—to me, the right next step for the agency to take is to analyze what really is going on in the marketplace, both with respect to broadcasting, with respect to cable, and satellite.

Anecdotally, I think we can see areas of concern, and also some good news. There's programming available on cable that wasn't available 20 years ago, when the Act was passed. That's good news. That programming isn't available to Americans who don't have cable. I have questions about how easy it is for parents to find both the quality programming that's on cable and also the so-called EI programming that's on broadcasting.

So, the inquiry that I expect the FCC will launch will look at the quantity issue that you raised, the quality issue that you raised, the parental-tools issue that you raised, and the enforcement issue that you raised.

The CHAIRMAN. Mark, can I make one more comment?

I have—just to emphasize my feeling about the importance of all this—I hardly go back to West Virginia but that I don't have a roundtable with parents, schoolteachers, psychiatrists, psychologists, principals, guidance counselors, who are scared, horrified, helpless, in many respects, who feel alienated from the process, who have absolutely no idea what the FCC does, because—well, I can talk about a website, you can talk about a website—well, what do they know about a website, unless they've heard about it?

And they don't know what to do, and they desperately want to do well by their children, and they feel that they can't. I'm not asking for a response, I'm simply saying how important I think this is.

Mark Pryor?

[Off microphone.]

The CHAIRMAN. No, it isn't.

[Laughter.]

Senator PRYOR. I've totally just beaten him down and worn him out, so we're ready to—

The CHAIRMAN. No, you can't beat him down, wear him out. I'll guarantee you that.

[Laughter.]

Senator PRYOR. No, but thank you. I do thank you, Mr. Chairman.

The CHAIRMAN. OK, now, do you have to go? I wanted to ask you another question.

Mr. GENACHOWSKI. No, thank you, this—I'm—I, again, thank you, and commend the Committee and you for launching this in-

quiry. It's a very important topic, and America's parents are grateful that you're doing this.

The CHAIRMAN. OK. I think that means he has to go, don't you?

Senator PRYOR. Yes, he does—

[Laughter.]

Senator PRYOR. Thank you.

The CHAIRMAN. All right. Well, bless you, and—dig in. I mean—

Mr. GENACHOWSKI. Thank you.

The CHAIRMAN. I mean, we are so lucky to have you, I cannot tell you.

Mr. GENACHOWSKI. Thank you, sir.

The CHAIRMAN. All right.

[Pause.]

The CHAIRMAN. Well, welcome. Are you all good friends and on speaking terms and all that kind of thing? We have a Nation to save, and a young generation to save, and an older generation to save.

Let me introduce the panel. It's Mr. Gary Knell, who's President and CEO of Sesame Workshop, at One Lincoln Plaza. And I take it that means Lincoln Center.

Mr. KNELL. Right across the street.

The CHAIRMAN. Yes, right across the street.

Dr. Sandra Calvert—and here's where my West Virginia pride just starts—

Dr. CALVERT. Absolutely.

The CHAIRMAN. I mean it's a very hokey thing to do—

[Laughter.]

The CHAIRMAN.—but I can't help it. You are considered an absolute master of the subject, and—I mean it—at the Children's Digital Media Center. And you work in Georgetown. And there are other kinds of titles and things, but we're going to wait to hear from you. And I'm really thrilled that you're here.

Mr. John Lawson, Executive Director of ION Media Networks, of Arlington, Virginia.

Ms. Cyma Zarghami, who is President of Nickelodeon, which my grandchildren watch a great deal, and the MTV and Family group, from New York.

Mr. James Steyer—is that right?

Mr. STEYER. Yes.

The CHAIRMAN. I'm terrified of names like that.

Mr. STEYER. You got it right, Senator.

The CHAIRMAN. I did. OK.

CEO of Common Sense Media—sounds like a very dangerous group—

[Laughter.]

The CHAIRMAN.—from San Francisco, California. Did you come all the way for this hearing?

Mr. STEYER. I actually came from Lake Tahoe and my family vacation, so that's a really important hearing to be here for you.

The CHAIRMAN. Well—have we got any chocolate chip cookies or anything?

[Laughter.]

The CHAIRMAN. Can we just start?

And, incidentally, we're joined by our good Senator from Alaska. And he just got here too late to make a statement, don't you think, Mark?

Senator PRYOR. Just barely missed it.

The CHAIRMAN. Just barely missed it, yes.

[Laughter.]

The CHAIRMAN. But, he is absolutely terrific. He's 47 years old, former Mayor of Anchorage. First term, walks in here, doesn't use a note, everything occurs up here, he seems to know everything. And he's part of the new eagerness of this committee, which I want to make very, very clear to you. We are a different committee. We have hired investigators, like Henry Waxman has. We look into dark corners. We want to know who's doing what. We love beating up on the insurance industry. And we're very, very good at it. And we don't want to have to do that on television.

So, Mr. Gary Knell, can we start with you, sir?

Senator BEGICH. Welcome.

[Laughter.]

**STATEMENT OF GARY E. KNELL, PRESIDENT AND CEO,  
SESAME WORKSHOP**

Mr. KNELL. Thank you very much, Mr. Chairman and members of the Committee. I'm Gary Knell. And we are delighted that you have a new vigor added to this committee, for one. And focusing on children's television, as you articulated, is so welcome, and so necessary, I think, as we move forward in the 21st century.

You know, we're celebrating Sesame Street's 40th birthday already. And when you think about how much the world has changed in the last 40 years—it was started with the premise of using the power of television to teach preschoolers, and give them a heads up, to get them better prepared for school. And I think—you know, we all know about the success. I wish I could have brought Elmo; he would have been a much, you know, more vibrant witness than I am. But, he's busy taping and trying to do positive media for kids.

So, today we focus again on the Children's Television Act. And there were two things, when Sesame Street was created, 40 years ago, that were repeated in the Act. It was about trying to harness the power of children's—the educational role of media, because we knew that television was teaching. And, of course, what the Act focused on was limiting the negative impacts of our children's health that media sometimes, unfortunately, walks into.

And since 20 years ago, as you pointed out earlier, and Chairman Genachowski pointed out, the whole idea of the Act promoting better media on broadcast stations or limiting commercial time on broadcast stations, was very well intended, but, in a 2010 context, in my view, almost irrelevant today, as we look at a world where your grandchildren will never know a world before cell phones, will never know a world before iPods, never know a world before Nintendo, Wii, or PlayStations, or DS, or iPods.

So, everything is changed, Mr. Chairman, but the needs are the same. The needs are really about education for our kids, as we have 30 percent of our children in this company—in this country, rather—dropping out of high school. And we know, by the fourth

grade, if they are not readers in an appropriate grade-level way, the chances of them dropping out of high school are so great.

And today, we don't have as big a need in preschool programming. There's a lot of educational preschool programming. There were two preschool shows in 1988—Fred Rogers and Sesame Street; today there are 47.

The big dearth is in 6- to 11-year-old programming, that critical age group when children go from “learning to read” to “reading to learn.” And that's where I think we need to take a look. And I hope that Chairman Genachowski, in his inquiry, will take a look at how we can incentivize the creation of educational content for this targeted age group that really needs our help, in terms of using media, which we know teaches, and making a difference in their lives.

We're pleased that the new broadband act that you helped enact earlier this year promotes education in serving underserved communities. That's really important. We've got to make that stick.

It's critically important, as we go through the next decade, as we are going to see a merger of formal learning, digital learning—more and more into our classrooms—and informal learning, at home. These things are going to get more merged as technologies get more sophisticated.

And finally, on the public health issues—there are just huge public health issues. I want to just point to one. I chaired a task force for Senator Brownback, who's a member of this committee, and Senator Harkin, and the former FCC Chairman, Kevin Martin, to try to get voluntary guidelines around food marketing to kids. We made a lot of progress, but there were a couple of holes that still were not filled.

One was, there's still confusion out in the marketplace about so-called “uniform nutrition standards,” so that parents understand, and broadcasters understand, and food companies understand, about what is a healthy food and what is an unhealthy food. These are things which I think our government still needs to focus on and clarify. And at the same time, media companies, who play such a strong gatekeeper role, whether they admit that or not, they are still in many ways a channel between a child and the content. How can they step up to understand their powerful role in making a difference in children's lives as we face this great epidemic around childhood obesity in this country, where children today are expected to live fewer years than their parents. There's a very important role that the media needs to play here.

So, the importance of education continues in 2010, just as it did back in 1969 with Sesame Street, and in 1990 with the Children's Television Act, and the ability to promote media as a health solution, as opposed to part of the problem, are the two things I'd like the Committee to focus on as you hone in on taking a new look at children's television.

Thank you.

[The prepared statement of Mr. Knell follows:]

PREPARED STATEMENT OF GARY E. KNELL, PRESIDENT AND CEO, SESAME WORKSHOP

Good afternoon, Chairman Rockefeller, Senator Hutchison, and distinguished members of the Senate Commerce Committee. Thank you for your leadership in

holding today's hearing, "Rethinking the Children's Television Act for a Digital Media Age." My name is Gary Knell, and I am the President and CEO of Sesame Workshop, the nonprofit educational organization that is perhaps best known as the independent producer of *Sesame Street*, now celebrating its 40th anniversary, and *The Electric Company*. We appreciate the opportunity to participate in this very important discussion, examining the intent and effect of the Children's Television Act in the new day of digital media and multiple screens. We are strongly committed to the belief that the media environment we create for our children today will have a lasting impact on their education and health, and ultimately, on our Nation's future.

Forty years ago, in 1969, *Sesame Street* was created to help disadvantaged preschool children prepare for school. It was a groundbreaking experiment, proving that the power of television could be harnessed to educate our Nation's children. Once described by former FCC Chairman Newton Minow as "a vast wasteland,"<sup>1</sup> television, we discovered in study after study through *Sesame Street*, had the power to positively impact children's educational and social-emotional development.

Understanding the potential benefits of television on our children, Congress passed the Children's Television Act of 1990. In doing so, Congress determined that market forces by themselves had not produced a sufficient amount of educational programming on commercial broadcast television and that government action was necessary.<sup>2</sup> Accordingly, one of the legislation's main goals was to increase the amount of educational programming available to children. Another goal was to protect young viewers' vulnerability to commercial persuasion by limiting advertising time.<sup>3</sup>

Since 1990, the media landscape has evolved such that there now exists tremendous consolidation of children's media in which the top three media companies (Nickelodeon, Disney and Cartoon Network) account for 92 percent of 6 to 11 year-olds' viewing on the main kids' broadcast and cable networks<sup>4</sup> and control a lion share of the market on the web. Although these media companies offer our children some excellent entertaining and educational programs, consolidation has made it quite challenging for independent producers to emerge and prosper as the three maintain effective "control" of the means of content and the means of distribution.

Children are not only watching the television screen in the living room, but they are engaging with multiple screens. Television has gone everywhere, it has become interactive, and children are using it. According to the Kaiser Family Foundation, children ages six and under are spending about 2 hours a day with television, computers and video games, which is just about the same amount of time they spend playing outside and about triple the time they spend with books.<sup>5</sup> Older children ages eight to 18 years spend six and a half hours a day with media for recreational purposes, which is more time than they spend doing anything else, except for sleeping.<sup>6</sup>

Consider how quickly the media landscape is changing. The Pew Research Center's Internet and American Life Project offers an illuminating description of the evolving nature of media in a young person's life today. Imagine a child born in 1990, the year that the Children's Television Act was enacted. It was the same year that the World Wide Web was created. By the time this child was 3 years old and walking, the first web browser was used. When she was in first grade, instant messaging was available and Palm Pilots emerged in the marketplace. By second grade, blogging had begun. In third grade, TiVo and Napster could be used to access content; by sixth grade, she had an iPod. As a young teenager, at age 13 or 14, she could use social networking sites, tag online content, post photos online and download podcasts. Finally, when she was old enough to get her driver's learning

<sup>1</sup>Minow, Newton, "Television and the Public Interest." Speech given at the National Association of Broadcasters, Washington, D.C., May 9, 1961. Available at <http://www.americanrhetoric.com/speeches/newtonminow.htm>.

<sup>2</sup>Federal Communications Commission Fact Sheet, "Children's Television Programming," April, 1995. [http://www.fcc.gov/Bureaus/Mass\\_Media/Factsheets/kidstv.txt](http://www.fcc.gov/Bureaus/Mass_Media/Factsheets/kidstv.txt).

<sup>3</sup>Kunkel, D. and Wilcox, B. (2001). "Children and Media Policy" in D. G. Singer and J. L. Singer (Eds.), *Handbook of Children and the Media* (pp. 589-604). Thousand Oaks, CA: Sage Publications.

<sup>4</sup>Nielsen Media Research. Marketbreaks. 9/28/08-6/29/09. K2-5 and K6-11 Live+7 AA(000). Percentage totals based upon the percentage of AA(000) for each network among the core kids' focused networks (PBS, Nickelodeon, Noggin, Nicktoons, The N, Disney Channel, Disney XD and Cartoon Network).

<sup>5</sup>Rideout, V., Vandewater, E. A. and Wartella, E. A. (2003). *Zero to Six: Electronic Media in the Lives of Infants, Toddlers and Preschoolers*. Menlo Park, CA: Henry J. Kaiser Family Foundation.

<sup>6</sup>Rideout, V., Roberts, D. and Foehr, U. (2005). *Generation M: Media in the Lives of 8-18 Year-Olds*. Menlo Park, CA: Henry J. Kaiser Family Foundation.



permit, she could post on Facebook to spread the news to her friends.<sup>7</sup> This child cannot remember a time when television or radio was the only way to access media. To this child, a computer screen is really not much different from a television screen, and in this rapidly evolving digital media world, these screens are converging everyday.

Yet while in some ways the world of children’s media has changed completely since 1990, the irony is that, in other ways, it’s exactly the same. Media content—whether it’s delivered through the television screen, a hand-held device or in a video game—still plays a powerful role in children’s education and if it is not harnessed to serve children’s interests, can play a potentially negative role in their health and social-emotional development. So the issues that Congress raised in 1990 about a lack of children’s educational media and an overabundance of marketing to kids are still the very issues that we must address today.

In rethinking the Children’s Television Act, therefore, we respectfully request that Congress:

1. *Incentivize the creation of more educational content to children across digital media platforms.*

While it appears that children have more choices available than ever before, the truth is that today’s media environment is cluttered with all sorts of programming, some much better than others. From our point of view, there is a real lack of quality, educational content now for school-aged children, especially 6 to 9 year-olds. At a time when it is critical for these children to master certain literacy and numeracy skills, we do not have enough quality content to address this need. If America is to compete in a 21st century global world, as President Obama has stated, our children need a strong, competitive education. Digital media can be a powerful partner.

Just as, looking at television, Congress created PBS and pushed commercial broadcasters to air educational/informational programming, we must now look inside today’s tool kit to see how innovative technologies can be deployed to create a learning environment for our Nation’s children.<sup>8</sup> That is why we started the Joan Ganz Cooney Center for Educational Media and Research, exploring the ways in which digital media can promote literacy for our 6 to 9 year-olds and even accelerate their learning through video games, cell phones and other digital media. It is time for media at large to take on groundbreaking experiments in education, similar to the uncharted path *Sesame Street* embarked on 40 years ago, to raise the bar and think creatively on how we educate our children and prepare them for a global world.

Government can play a significant role in ensuring that media is harnessed in innovative ways to enhance and support our children’s education. Here is one example. As the Federal Communications Commission considers how to develop a broadband strategy to best serve the nation, the educational needs of children must be a top priority. A national broadband plan must extend beyond hardwiring alone to include a content software strategy so that children can benefit from engaging educational content available online. And beyond the delivery of broadband, Congress should explore ways to ensure the creation of more and better educational content for children that could extend across media platforms and serve as powerful learning tools.

2. *Provide a better framework for protecting children’s health in the digital age.*

As children now navigate the digital media landscape, they are now exposed to advertising and marketing across media platforms—on their favorite websites, in video games and on mobile devices. Congress has long recognized children’s unique vulnerability to commercial persuasion which is why it set limits on advertising under the Children’s Television Act.<sup>9</sup> These rules should be updated for the digital age to reflect the dramatic changes in the children’s media landscape.

One relevant example has been the need to protect our children’s health as they face a very serious public health crisis; this is the first generation of children whose life expectancy may be lower than that of their parents due to childhood obesity.<sup>10</sup> While many factors contribute to this crisis, the Institute of Medicine has stated

<sup>7</sup>Rainie, Lee, “Teens and the Internet.” Presentation of the Pew Internet and American Life Project at the Consumer Electronics Show-Kids@Play Summit. January 9, 2009. Available at [www.pewinternet.org/Presentations/2009/Teens-and-the-internet.aspx](http://www.pewinternet.org/Presentations/2009/Teens-and-the-internet.aspx).

<sup>8</sup>See “Learning English, in Virtual World” *New York Times*, July 20, 2009, p. B7.

<sup>9</sup>Kunkel, D. and Wilcox, B. (2001). “Children and Media Policy” in D. G. Singer and J. L. Singer (Eds.), *Handbook of Children and the Media* (pp. 589–604). Thousand Oaks, CA: Sage Publications.

<sup>10</sup>S. Jay Olshansky, et al, “A Potential Decline in the Life Expectancy in the United States in the 21st Century,” *New England Journal of Medicine*: 352: 11: 1138–1145.

that food marketing is one of them.<sup>11</sup> We know that a significant amount of marketing targeted to children, both on television and online, is food products,<sup>12</sup> which nutritionists will tell you are too often not healthy. We also know that advertising and the use of licensed characters to promote certain foods influences children's preferences, purchase requests and consumption habits.<sup>13</sup>

Two years ago, I was asked to lead a joint Senate/Federal Communications Commission Task Force on Media and Childhood Obesity. Working with Senators Tom Harkin (D-IA) and Sam Brownback (R-KS) and former FCC Chairman Kevin Martin, I facilitated discussions with food companies, children's media companies and advertisers, along with public health and children's advocates, aimed at creating voluntary standards to increase exposure to healthy food messages and limit exposure to the unhealthy ones.

While the Task Force made progress in achieving some of these voluntary industry commitments, two key issues were left unresolved. Primarily, we need to implement a uniform nutrition standard for food marketing to children. Right now, food/beverage companies each have a different definition for what constitutes a healthy food. This is ultimately confusing to parents and creates a situation where similar foods will be considered "healthy" by one company's criteria while "unhealthy" by another company's criteria. Second, media companies need to step up their role in protecting children by monitoring their advertising environments. They need to do more to ensure that unhealthy food advertising is significantly reduced. ION Media has already restricted the airing of advertisements that don't meet nutritional standards in their children's programming.

Given how much time children spend with media and the pervasiveness of food marketing across digital platforms, Congress should address this issue. The former United States Surgeon General identified childhood obesity as "the fastest growing cause of disease and death in America."<sup>14</sup> As Congress focuses on health care reform, the prevention of childhood obesity must be a top priority and successful outcomes will be a sure fire way to prevent huge costs to individuals and taxpayers later.

In closing, I want to thank members of the Senate Commerce Committee for their leadership on helping focus attention on the needs of our Nation's children. As we consider how the children's media landscape has changed over the last 20 years, we must update the Children's Television Act into a Children's Media Act, if you will, which supports children's education in a competitive, global economy and also protects their health. Thank you and I am happy to answer any questions.

The CHAIRMAN. No, thank you. And that's well said, had not previously been said.

Dr. Sandra Calvert—once again, Director of the Children's Digital Media Center at Georgetown.

**STATEMENT PROFESSOR SANDRA L. CALVERT,  
PROFESSOR OF PSYCHOLOGY AND DIRECTOR,  
CHILDREN'S DIGITAL MEDIA CENTER,  
DEPARTMENT OF PSYCHOLOGY, GEORGETOWN UNIVERSITY**

Dr. CALVERT. Good afternoon, Chairman Rockefeller and members of the Senate Committee on Commerce, Science, and Transportation.

I am Sandra Calvert, a Professor of Psychology at Georgetown University, the Director of the Children's Digital Media Center, and a native of West Virginia.

<sup>11</sup> Institute of Medicine, *Food Marketing to Children and Youth: Threat or Opportunity*, National Academy of Sciences Press, December 2005.

<sup>12</sup> Rideout, V. (2007). *Food for Thought: Television Food Advertising to Children in the United States*. Menlo Park, CA: Henry J. Kaiser Family Foundation. Rideout, V. and Moore, E. (2006). *It's Child's Play: Advergaming and the Online Marketing of Food to Children*. Menlo Park, CA: Henry J. Kaiser Family Foundation.

<sup>13</sup> Institute of Medicine, *Food Marketing to Children and Youth: Threat or Opportunity*, National Academy of Sciences Press, December 2005.

<sup>14</sup> Richard H. Carmona, "The Obesity Crisis in America," Testimony of the United States Surgeon General before the Subcommittee on Education Reform, Committee on Education and the Workforce, U.S. House of Representatives, July 19, 2003. <http://www.surgeongeneral.gov/news/testimony/obesity07162003.html>.

Twenty-first-century work skills require knowledge of, and a facility with, digital technologies. My own work at the Children's Digital Media Center, and that of my colleagues, includes an examination of how we can harness the power of 21st-century digital media to enlighten and educate children, as well as prepare them for our future. The Children's Television Act is an important vehicle for accomplishing this goal.

From the cradle throughout their development, children's lives are embedded in digital media. In the first 6 years of life, children spend an average of 2 hours per day in front of a screen. From age 8 through the adolescent years, the amount of media time jumps to 6½ hours per day, or to more than 8 hours of daily use if multitasking is considered. While television is still the dominant medium of choice, newer interactive media are rapidly making inroads into children's daily media experiences.

Congress recognized the potential of media for children's development when it passed the Children's Television Act in 1990, which required broadcasters to provide educational and informational television programs to child viewers, as well as to restrict the amount of commercial advertisements broadcast during those programs.

Since the passage of the Children's Television Act, commercial broadcasters have had to provide no more than a mere 3 hours of educational television content per week. Even so, a 2008 content analysis reported by Children Now revealed that children's educational television programs were educationally insufficient.

With the implementation of digital television as the standard format for televised broadcast, the time to reconsider the requirements of the Children's Television Act is now. We have many children who are struggling or failing in school. Our children's standardized scores on mathematics, science, and reading literacy assessments trail behind their international peers. This state of affairs is appalling. Our country knows how to create quality media, and well-designed educational content is effective in lifting the scholastic success of our youth.

Digital television allows broadcasters to transmit high-definition images, multicast four to six channels in standard definition format, and provide ancillary services, such as interactive options. Noncommercial PBS stations are taking advantage of the newer digital media by creating website content that supplements the educational messages they transmit via television programs. These newer digital media interfaces allow children to create, to interact directly with educational material, and to extend the learning that they get from viewing television content to a different platform that allows them to control what they are learning at a rate that fits their own current skill level.

The commercial broadcasters, by contrast, have been far less likely to take advantage of this powerful option. At this point, it is timely for the commercial broadcasters to return something in kind to the American public for the use of our bandwidth. Therefore, I recommend that Congress, in conjunction with the Federal Communications Commission, consider the following steps:

One, require commercial broadcasters to expand their educational and informational program offerings on the airwaves and on websites.

Two, expand the number of players who are part of the educational and informational mix. Those who create interactive media should be high on this list.

Three, allocate funds for a center that is a public-private partnership to serve as a think tank for creating, for testing the efficacy of, and for distributing high-quality media, particularly interactive media.

The Children's Television Act was passed by Congress almost 20 years ago as a way to use our media in a constructive way for our children's development. The promise envisioned by Congress at that time, of a quality children's media environment, remains just that: a promise. I ask you to act so that the dream of a quality media environment for children can become a reality in the early part of the 21st century.

Chairman Rockefeller and Committee members, thank you for your time. Please regard the Children's Digital Media Center as a resource to the Committee as you consider this and other issues.

[The prepared statement of Dr. Calvert follows:]

PREPARED STATEMENT OF PROFESSOR SANDRA L. CALVERT, PROFESSOR OF PSYCHOLOGY AND DIRECTOR, CHILDREN'S DIGITAL MEDIA CENTER, DEPARTMENT OF PSYCHOLOGY, GEORGETOWN UNIVERSITY

Good morning, Mr. Chairman and members of the Senate Committee on Commerce, Science, and Transportation. I am Sandra Calvert, a Professor of Psychology at Georgetown University and the Director of the Children's Digital Media Center.

Twenty-first century work skills require knowledge of, and a facility with, digital technologies. President Obama believes that education should be reformed, in part, by harnessing the power of digital technologies to transform the way that children learn in the 21st century.<sup>1,2</sup> My own work at the Children's Digital Media Center, and that of my colleagues, includes an examination of how we can use digital media to enlighten and educate children as well as prepare them for their future. The Children's Television Act is an important vehicle for accomplishing this goal.

Knowledge of how to use digital media to educate and inform our youth is critical for our Nation's future. From the cradle throughout their development, children's lives are embedded in digital media. In the first 6 years of life, children spend an average of 2 hours per day in front of a screen.<sup>3</sup> From age 8 through the adolescent years, the amount of media time jumps to 6.5 hours per day, or to more than 8 hours of daily use if multitasking is considered. While television is still the dominant medium of choice for children and youth, newer interactive media are rapidly making inroads into their daily media experiences.<sup>4</sup>

Congress recognized the potential of media for children's development when it passed the Children's Television Act in 1990, which required broadcasters to provide educational and informational television programs to child viewers as well as to restrict the amount of commercial advertisements broadcast during those programs.<sup>5</sup> Since the passage of the Children's Television Act, commercial broadcasters have had to provide no more than a mere 3 hours of educational television content per week. Even so, a 2008 content analysis reported by Children Now revealed that children's educational television programs were educationally insufficient, not at all what Congress intended when it required commercial broadcasters to provide edu-

<sup>1</sup> Issues: Technology. (2009). Office of Science and Technology Policy, Executive Office of the President. Retrieved July 20, 2009, at <http://www.ostp.gov/cs/issues/technology>.

<sup>2</sup> Issues: Education. (2009). Retrieved July 20, 2009 at <http://www.whitehouse.gov/issues/education>.

<sup>3</sup> Rideout, V. J. and Hamel, E. (2006). *Zero to six: Electronic media in the lives of infants, toddlers, and preschoolers*. Menlo Park, CA: Kaiser Family Foundation.

<sup>4</sup> Roberts, D. F., Foehr, U. G. and Rideout, V. (2005). *Generation M: Media in the lives of 8-18-year-olds*. Menlo Park, CA: Kaiser Family Foundation.

<sup>5</sup> Children's Television Act of 1990 (CTA). (1990). Publ. L. No. 101-437, 104 Stat. 996-1000, codified at 47 USC Sections 303a, 303b, 394.

cational and informational (EI) television programs.<sup>6</sup> While the success of this law remains a matter of public debate, what the Children's Television Act will mean in the 21st century is a key to children's future scholastic and occupational success.

With the implementation of the digital television as the standard format for televised broadcasts, the time to reconsider the requirements of the Children's Television Act is now. We have many children who are struggling or failing in school. Our children's standardized scores on mathematics, science, and reading literacy assessments trail behind their international peer group.<sup>7</sup> This state of affairs is appalling. Our country knows how to create quality media, and well-designed educational content is effective in lifting the scholastic success of our youth. For instance, preschool-aged children who were frequent viewers of educational television programs such as *Sesame Street* and *Mister Rogers' Neighborhood* were more successful at school entry and during their high school years than those who viewed these kinds of programs infrequently.<sup>8</sup> In addition, well-designed commercially broadcast educational and informational television programs are understood quite well by grade-school children, and many children view these programs on a regular basis. Consider the following academic science lesson reported online by a child who said that *The Magic School Bus* (originally broadcast by PBS but used as an educational and informational television program by FOX during the time that these data were collected) was his favorite program:

I watched *The Magic School Bus*. The episode that I watched was the episode where all of the class except for Arnold go into Arnold's body. By watching *The Magic School Bus* I learned that the villi is what sucks up the food in the small intestine. And I learned that all of the water is sucked out of the food in the large intestine. I also learned that not all food can be completely broken down. The episode also told me that the food that can not be completely broken down remains in a solid form when you eliminate it. And the food that is completely broken down comes out as a liquid.<sup>9</sup>

Noncommercial PBS stations are taking advantage of the newer digital media by creating website content that supports and supplements the educational messages they transmit via television programs. These newer digital media interfaces allow children to create, to interact directly with educational material, and to extend the learning that they get from viewing television content to a different platform that allows them to control what they are learning at a rate that fits their own current skill level.<sup>10</sup> Interactive media can create scaffolds that build on individual knowledge bases, thereby maximizing effectiveness. The commercial broadcasters, by contrast, have been far less likely to take advantage of this powerful option. Financial incentives or legal restrictions are simply not present to press the commercial broadcasters to meet their 21st century responsibility for educating our youth.

Our Nation missed a golden opportunity to expand the Children's Television Act when we gave a gift of new bandwidth to the existing commercial broadcasters. Digital television allows broadcasters to transmit high-definition images, multi-cast 4–6 channels in standard definition format, and provide ancillary services such as interactive options and video on demand.<sup>11</sup> The Federal Communications Commission (2004) ruled that broadcasters had to provide educational and informational programs that were consistent with the total amount of time they had available to

<sup>6</sup>Children Now. (2008, November). Educationally/insufficient? An analysis of the availability and educational quality of children's E/I programming. Accessed July 20, 2009 at [http://publications.childrennow.org/publications/media/eireport\\_2008.htm](http://publications.childrennow.org/publications/media/eireport_2008.htm).

<sup>7</sup>National Center for Education Statistics. (2009). Comparative indicators of education in the United States and other G–8 countries: 2009. U.S. Department of Education Institute of Education Sciences. Retrieved July 20, 2009, from <http://nces.ed.gov/pubs2009/2009039.pdf>.

<sup>8</sup>Anderson, D. R., Huston, A. C., Schmitt, K. L., Linebarger, D. L., and Wright, J. C. (2001). Early childhood television viewing and adolescent behavior. *Monographs of the Society for Research in Child Development*, 66, vii–156.

<sup>9</sup>Calvert, S. L., and Kotler, J. A. (2003). Lessons from children's television: Impact of the Children's Television Act on children's learning. Special issue of the *Journal of Applied Developmental Psychology*, 24, 275–335.

<sup>10</sup>Calvert, S. L., Strong, B. L., Jacobs, E. L. and Conger, E. E. (2007). Interaction and participation for young Hispanic and Caucasian children's learning of media content. *Media Psychology*, 9(2), 431–445.

<sup>11</sup>Federal Communications Commission (2000). In the matter of children's television obligations of digital television broadcasters: Notice of proposed rulemaking. (FCC MM Docket No. 00–167).

broadcast programs.<sup>12</sup> Many of the commercial broadcasters, however, did not choose to use that new public bandwidth to create multiple channels that would have required them to expand their educational and informational television programs.

At this point, it is timely for the commercial broadcasters to return something in kind to the owners of our airwaves—the American public—for the use of our bandwidth. Therefore, I recommend that Congress, in conjunction with the Federal Communications Commission, consider the following avenues to take advantage of the potential of our newer digital media:

1. Require commercial broadcasters to expand their educational and informational program offerings. Expansion could be accomplished by increasing the number and kind of educational and informational television program offerings broadcast for children on a weekly basis and by creating websites of existing programs that will supplement those messages.
2. Expand the number of players who are part of the educational and informational mix. Those who create interactive media should be high on this list. Tax incentives can sweeten the pot for broadcasters and other relevant businesses that create quality media for children.
3. Take steps to facilitate a constructive conversation among broadcasters, academics, policymakers, and public interest groups who are concerned with quality children's media. In particular, I recommend that the government establish and allocate funds for a Center that is a public-private partnership. By bringing diverse groups to the same table, an innovative approach for creating quality children's media content could be fostered. This Center could serve as a think tank for creating, for testing the efficacy of, and for distributing high quality media, particularly interactive media.

The Children's Television Act was passed by Congress almost 30 years ago as a way to use our media in a constructive way for our children's development. The promise envisioned by Congress at that time of a quality children's media environment remains just that: a promise. I ask you to act so that the dream of a quality media environment for children can become a reality in the early part of the 21st century.

Chairman Rockefeller and Committee members, thank you for your time. Please regard the Children's Digital Media Center as a resource to the Committee as you consider this and other issues.

The CHAIRMAN. We surely will. And I like your idea very, very much.

Dr. CALVERT. Thank you.

The CHAIRMAN. Dr.—sorry, John Lawson—you may be a doctor—

Mr. LAWSON. I'm not, sir, but I've played one on television.

[Laughter.]

The CHAIRMAN. OK. I love that.

Executive Vice President, ION Media Networks, from the distant City of Arlington, Virginia.

**STATEMENT OF JOHN LAWSON, EXECUTIVE VICE PRESIDENT,  
ION MEDIA NETWORKS, INC. ON BEHALF OF THE NATIONAL  
ASSOCIATION OF BROADCASTERS**

Mr. LAWSON. Thank you, Mr. Chairman, Senator Pryor, Senator Begich. Thank you very much for having me here to discuss broadcasters' continuing dedication to children's television and the groundbreaking efforts made by ION Media in this area.

I'm John Lawson, Executive Vice President of ION Media Networks, which is the Nation's largest broadcast television group.

<sup>12</sup>Federal Communications Commission (2004). In the matter of children's television obligations of digital television broadcasters: Report and order and further notice of proposed rule-making. (MM Docket No. 00-167).

I testify today in my role as a member of the NAB Board of Directors of the National Association of Broadcasters, and, more importantly, as a parent. And I'm happy, Mr. Chairman, that my wife, Nan, and twin sons, Jackson and Thaddeus, are here with me today.

The CHAIRMAN. Right over there?

Mr. LAWSON. Yes, sir.

The CHAIRMAN. You know, they are such great-looking kids.

[Laughter.]

The CHAIRMAN. And I have been wondering, so I want them to stand up.

Mr. LAWSON. They take after their mother.

[Applause.]

The CHAIRMAN. You're right about that.

[Laughter.]

The CHAIRMAN. Thank you, boys.

Mr. LAWSON. I hope that statement added credibility to the rest of my statement.

Senator, we don't—we live in Virginia, but we do have a home in West Virginia that we love.

VOICE. It's a conspiracy.

[Laughter.]

The CHAIRMAN. This is not a conspiracy. I am locationally neutral.

[Laughter.]

Mr. LAWSON. Mr. Chairman, to make certain, ION and local television stations across the country share Congress's goal of promoting quality educational and informational children's programming. I don't think it's lost on anyone that children are a precious resource, and we must provide them with the tools to allow them to succeed.

To this point, local broadcasters remain the foundation in communities across the country as the leading source of news, safety information, culture, education, entertainment, and sports.

As we look at the Children's Television Act, almost 20 years after enactment, a number of issues surface. First, local broadcasters continue to provide high-quality, diverse educational and informational programming to meet the needs of these young viewers; and with DTV, we're doing even more.

Thanks to the efforts of you, Chairman Rockefeller, and the leadership of this committee, full-power broadcasters have now successfully transitioned to all-digital broadcasting. On June 12, America became the first large country in the world to complete the transition to DTV, and millions of households across the country are now enjoying dramatically better pictures and sound, as well as new platforms for children's programming.

For example, ION airs three digital multicast streams that include Qubo, a full-time kid's channel, that fills the gap, that Gary was mentioning, between preschool and 'tween channels. We also broadcast ION Life, a channel dedicated to active living, as well as our main service, ION Television. Broadcasters are also preparing to deploy mobile DTV that would allow anyone with an enabled cell phone or laptop to receive free television wherever they go.

And, Mr. Chairman, I'm very proud that I can demonstrate, for you and the Committee, mobile digital television. This is our kid's service, Qubo, displayed through an over-the-air signal, coming from our local ION station on an LG cell phone that was equipped to receive mobile television. And we will be displaying these and other devices at a hearing—at an event on the House side next week.

So this is DTV, sir, this is—

The CHAIRMAN. I'm impressed, I would love to be able to see it.

Mr. LAWSON. I will—

[Laughter.]

Mr. LAWSON.—be glad to bring it to you, Mr. Chairman, at your convenience.

In fact, I'll close it now so it won't distract me.

[Laughter.]

Mr. LAWSON. So, we're excited by DTV and the new services it brings, including mobile. Since its debut in 2007, Qubo remains the only 24/7 children's television service, the only one that is distributed nationally, free, and over the air. This groundbreaking bilingual destination for children features programs that focus on literacy, values, and healthy lifestyles, and celebrates the unlimited possibilities of a child's imagination.

Moreover, Qubo recently voluntarily adopted a set of nutritional guidelines for acceptable foods that can be advertised on-air. Qubo has been called the "gold standard" in the media's efforts to combat childhood obesity. And we commend Senator Brownback, and others, for their work in this area. We hope these efforts send a strong message to parents, policymakers, and business partners about our dedication to the wellness of America's kids.

At this time, however, we hope this committee will examine and support ways to encourage distribution for broadcasters like ION who are attempting to provide positive media alternatives to children and families. As recognized in today's hearing, parents have abundant additional choices, beyond the services provided by the Nation's commercial broadcast stations, of programming that is specifically designed to meet their needs. Children access media through a number of devices and services, including cable and satellite, DVDs, videos, and game systems, not to mention the Internet.

And, of course, in any discussion of children's programs, we must make special mention of the efforts of our noncommercial educational stations, which have enriched the lives of American children for years. And I'm honored to be on this panel with my friend, Gary Knell.

As we sit here today, broadcasters are looking ahead to the next 20 years of children's television. First and foremost, we remain committed to providing quality children's educational and informational programming that serves the public interest. At the same time, we must also remain vigilant against content that is not suitable for young children. In this regard, we must utilize technologies and the most effective tool of all: parental control. Broadcasters also recognize the leadership of Senator Pryor in this area, and agree on the importance of continued innovation.



In conclusion, broadcasters look forward to working with this committee as it reexamines the Children's Television Act. Broadcasters' commitment to children is not limited to 3 hours a week. As many of you know, and it's highlighted in my written testimony, broadcasters work very closely every day to serve their local communities.

And again, thank you for the opportunity to speak with you today about this important subject, and I look forward to answering any questions you may have.

[The prepared statement of Mr. Lawson follows:]

PREPARED STATEMENT OF JOHN LAWSON, EXECUTIVE VICE PRESIDENT, ION MEDIA NETWORKS, INC. ON BEHALF OF THE NATIONAL ASSOCIATION OF BROADCASTERS

Good afternoon Chairman Rockefeller, Ranking Member Hutchison and members of the Committee. My name is John Lawson and I am the Executive Vice President of ION Media Networks, Incorporated. I am also a member of the Board of Directors of the National Association of Broadcasters (NAB), on whose behalf I am testifying today. NAB is a trade association that advocates on behalf of free, local radio and television stations and also broadcast networks before Congress, the Federal Communications Commission (FCC) and other Federal agencies, and the courts.

I am pleased to appear before you to speak about broadcasters' continuing dedication to children's television and to the groundbreaking efforts made by ION Media in this area. But before I discuss children's television, I want to thank this Committee for its leadership and commitment to the television industry switch to all-digital broadcasting. On June 12, some 971 full-power television stations in 195 markets ceased analog broadcasting. They joined the over 800 stations that had already made the switch, thereby completing the shift of all full-power television stations to digital broadcasting. America is the first large country in the world to complete the transition to digital television (DTV), and millions of households across the country are now enjoying dramatically better pictures and sound in digital. Free high definition broadcasts are also available in every market in the country with just an antenna and a DTV set. In addition, viewers now benefit from the hundreds of stations that use digital technology to air new, free (multicast) channels carrying a wide variety of programming, including news, weather, sports, and foreign language programming. And exciting new digital services, including Mobile DTV, are being developed and launched by America's broadcasters.

Utilizing the extra months made possible by the DTV Delay Act, NAB worked closely with the FCC, the Commerce Department's National Telecommunications and Information Administration (NTIA), state broadcast associations and the 241-member DTV Transition Coalition to extend a robust two and one-half year consumer education campaign that drove viewer awareness and action on the transition to near-universal levels. And I want to assure you that broadcasters will continue to work in the days and weeks ahead to resolve any remaining reception issues and lend a helping hand to consumers that still may need assistance.

**I. ION Media Networks Has Created an Entire Broadcast Channel Dedicated to Serving Children and Families**

ION Media Networks owns and operates the largest U.S. broadcast television station group and ION Television, the country's only independent broadcast television network. ION Television is broadcast on its owned stations in each of the top 20 U.S. markets and 39 of the top 50, reaching over 96 million U.S. television households. ION Media Networks has 59 full-power broadcast television stations.

Reflecting ION's dedication to serving the public interest with quality programming, we provide family-friendly, high-quality educational programming for kids and their parents. Our brand Qubo originated in May 2006 when ION, NBC Universal, Scholastic Entertainment, Corus Entertainment and Classic Media, announced their plan to launch a new entertainment network that views the FCC's children's educational and informational television requirements not as an obligation, but as the core of its proposition. Beyond ION's digital broadcasting outlets, this collaboration extends to an interactive website visited by millions of families every month, the educational, literary, and creative assets of Scholastic, and the combined content libraries and production facilities of Nelvana, Classic Media, Big Idea, and NBC Universal, which also dedicated its Saturday morning lineups to

Qubo programming. Additionally, Telemundo airs Qubo programming in Spanish on weekend mornings.

Qubo launched its dedicated 24-hour digital channel across ION's nationwide station group in January 2007. Since its debut, Qubo continues to be the only full-time children's television service that is distributed nationally, for free over-the-air on a 24/7 basis. Qubo features a line-up of popular educational children's programming from the libraries of Qubo's leading content partners, including Nelvana's *Jane and the Dragon*, NBC Universal's *Boo!*, Classic Media's *3-2-1 Penguins*, and Scholastic's *Dragon*. ION stations offer the Qubo channel on one of their free-over-the-air digital broadcast feeds.

With its own dedicated channel, our goal at ION is that Qubo becomes a popular destination for children and their parents in the digital age, especially when Qubo expands its reach to other markets nationally by securing carriage on cable and satellite systems. Currently, AT&T's U-verse TV and Verizon FiOS TV, Mediacom Communications, several of Comcast's local systems, and a number of smaller cable systems carry Qubo. Speaking on behalf of ION, we hope this Committee will examine and support distribution for broadcasters like ION who are attempting to provide positive media alternatives for children and families.

## II. Qubo Programming Serves the Needs and Interests of Children

Qubo is a groundbreaking bilingual, multi-platform entertainment destination for children, featuring programs that focus on literacy, values, and healthy lifestyles and that celebrate the unlimited possibilities of a child's imagination. A very high percentage of Qubo's 24/7 programming meets the FCC's educational and informational (E/I) requirements. All of the programming aired on ION TV, NBC and Telemundo is E/I programming. Several of Qubo's most popular shows are also aired in Spanish on Telemundo on weekend mornings. Most of Qubo's shows are associated with popular children's books, and the network's interstitial programming also reinforces messages about early literacy and healthy living.

For example, Qubo recently voluntarily adopted a set of nutritional guidelines for acceptable foods that can be advertised on air. To create these nutritional guidelines, Qubo enlisted the help of nationally renowned author and expert on childhood obesity, Goutham Rao, MD., clinical director of the Weight Management and Wellness Center at the Children's Hospital of Pittsburgh and a member of the faculty at the University of Pittsburgh School of Medicine. The guidelines list acceptable nutritional intake limits for meals and snacks broken down by calories, grams of fat, as well as saturated and trans fats, sugar, protein, fiber and sodium. We are committed to combating childhood obesity through all of our networks, digital, online and mobile, and we hope that our guidelines send a strong message to parents, policymakers and business partners about our dedication to the wellness of America's kids.

Offering educational and informational programming is a responsibility that broadcasters take very seriously. We regard serving our child audiences as an integral part of our duty to serve the public interest. As parents, we recognize that our children are our most precious resource. And broadcasters are pleased with our collaboration with Congress, the FCC and children's advocates during the past several years to address challenging issues, such as the quantitative guidelines established by the FCC for stations' airing of children's E/I programming; appropriate displays of Internet website addresses during children's programming; and limitations on preemptions of children's programming. NAB previously described some of the high quality, diverse programming offered by television stations throughout the country in a submission to the FCC, which is attached to my testimony.

At ION, we are very proud of the programming we offer, both at Qubo through our network partners at NBC Universal and Telemundo. Some examples of the outstanding educational and informational programming we air for young children include:

- *My Friend Rabbit (Mi Amigo Conejo)* is based on an award-winning book by the same title. The lead characters, Rabbit and Mouse, work together to tackle challenges that are characteristic of the childhood experience. In each episode they face a unique dilemma that compels them to think creatively about how to approach and solve their problem by trying out different solutions and persisting with new ideas when one fails.
- By reaching pre-kindergarten and early elementary students, *The Zula Patrol (La Patrolla Zula)* can provide a critical foundation in understanding science concepts and content. This television program provides science education and character building lessons in an entertaining format through characters that travel in space. The Zula Patrol's comprehensive program addresses the na-

tional call for science literacy education among the very audience for whom research demonstrates that early intervention is the most effective.

- *321 Penguins (321 Penguinos)* features two children, Jason and Michelle, whose vacation at their grandmother's cottage ends up being more adventurous than they expect when their toy spaceship with four toy penguins comes to life. Each story begins with a moral dilemma that affects one of the siblings' relations with the other, and ends after the children have learned an important social emotional message through their adventure. The show communicates messages on topics such as honesty, being patient with others, and jealousy.
- Based on the popular books by Laurent de Brunhoff, *Babar* is an animated show about a young orphaned elephant who finds the strength to rise above the challenges he faces as he journeys through life. Babar and his family experience many challenges and they learn to rise above them through strength and optimism. Each episode of the show communicates social emotional messages that draw upon the bond of family and combine traditional values with a modern lifestyle.
- *Turbo Dogs (Perros Turbo)* is an animated show based on the books *Racer Dogs* by Bob Kolar. The series follows a group of six dogs from Racerville who love to compete with one another in races. In each story, one or more of the dogs encounter and solve problems that teach them social emotional lessons on good sportsmanship, teamwork, cooperation, playing fair, and friendship using action and humor. The show also imparts information on the mechanics of racing, such as directionality and the concepts of time and distance. The tags at the end of each episode reiterate and establish the educational message learned by the dogs.
- *Postman Pat* takes place in an English village and mines the social interdependencies of rural life for teaching children about problem solving and getting along with others. Postman Pat has a mail route that takes him throughout the countryside delivering mail and advice to his constellation of neighbors. While Pat may encounter a problem of his own, he also frequently comes to the aid of his friends and family who run into seemingly unfixable dilemmas drawn from everyday life. Within each episode, the characters learn, for example, how to get things done on time, fulfill their commitments, work cooperatively as a team, have confidence in their abilities, and are inclusive of others in order to get along. Children will see adults and children living and interacting with others respectfully and thoughtfully in trusting and kindhearted relationships.
- Set in medieval times, *Jane and the Dragon* is an animated show that hails from Martin Baynton's best-selling book about a middle class girl named Jane. Jane is raised in the Royal Court as a Knight in Training after she demonstrates her courage by leaving the castle to conquer the local dragon. In each episode, Jane encounters a challenge that tests her problem solving skills and requires her to demonstrate her strength of character as a Knight of the King's Guard. Sometimes Jane learns a moral lesson, and other times she uses her analytical ability to illustrate how a problem can be made less complicated and easily solved.

Beyond its quality television offerings, Qubo also maintains an interactive website, [www.Qubo.com](http://www.Qubo.com), that extends Qubo's educational programming beyond the television set. The website content includes episodes and clips from series including those listed above. In addition to these videos, and information about Qubo programming, the website maintains web-based games which are free to play online and are based on show characters and themes. Some of these games are educational, such as Babar's Painting Game, which promotes creativity, and problem-solving puzzle games, such as Babar's Hedge Maze and Zephir's Card Trick. The Qubo website is compliant with the Children's Online Privacy Protection Act and other safety measures to help protect children.

### III. Broadcasters' Commitment To Children Is Exemplary

Broadcasters' service to children in their local communities goes well beyond the airing of educational, informational and entertainment programming. From fundraisers, to public service announcements (PSAs) to community outreach, every day across the nation, radio and television stations are committed to ensuring that they serve child audiences and address issues affecting children and their families. Here are some recent examples of broadcasters' service:

- Evan Thompson had a wish very close to the heart of the staff at WGCL-TV in Atlanta, Ga. The child with neuroblastoma wanted his own television show. WGCL lent the use of its studio, and with the help of Make-A-Wish, Thompson's

dream came true. As media sponsor for all local Make-A-Wish events, WGCL has a hand in bringing hope and joy to many young Atlantans. PSAs, live remotes, news stories, website support and staff participation in Make-A-Wish events are all part of the partnership. The station aids with fundraising by promoting the annual Celebration of Wishes Gala on the air. This past year, anchor Bill Gaines emceed the event, which raised \$350,000. During the holiday season, the station participated in the "Stories of Light Wish-A-Thon," a five-day news campaign, which allowed children to tell their wish stories and encouraged viewers to visit the station website and donate to the foundation. Money raised goes toward the 400 wishes planned this coming year for local children. "A dedicated and dynamic media partner to Make-A-Wish, WGCL has effectively spread the word about our wish children," said Chandra McLean, communications and marketing manager for Make-A-Wish Foundation of Georgia and Alabama. "We have received numerous e-mails and phone calls from people in the community who have been motivated to share the power of a wish after tuning in to WGCL and watching children's dreams become reality."

- Helping children find "forever homes" is one of the many ways KDAF-TV in Dallas, Texas, puts its community first. The station's "A Child to Love" program, which involves the Gladney Center for Adoption and the Texas Department of Family and Protective Services, is now in its third year. Each week, a child in need of a permanent home is featured during the Monday "News at Nine" broadcast. The station promotes the segment with PSAs profiling the child and through the station's website. Since its inception, the station has shared the stories of 167 children, 74 of whom have found permanent homes. Last year, the station celebrated the airing of its 100th child profile with its Dolls & Balls Toy Drive, Easter Egg Hunt and Adoption Expo. At the event, viewers donated toys for children in foster care, 100 foster children participated in an egg hunt and information about adoption was distributed to prospective families. The station's efforts to produce, promote and air "A Child to Love" total more than \$160,000 in donated airtime annually. KDAF was the recipient of the 2007 Bonner McLane Public Service Award presented by the Texas Association of Broadcasters.
- Whether it's a tip on how to wear a bike helmet properly or encouragement to stand up and tell the truth, KUSI-TV in San Diego, Calif., has dedicated a regular PSA series to its youngest audience. The station's "Tips for Kids" campaign provides advice on an array of topics and airs each Saturday during the station's children's programming. In addition to tips featuring KUSI news anchors and reporters, this year the station gave kids the opportunity to share tips with their fellow youngsters by inviting all first- through sixth-grade teachers in the county to write PSAs with their classes. Morning meteorologist Renee Kohn, accompanied by a camera person, visited each school to record the announcements. During these classroom visits, the children also appeared live on "Good Morning San Diego," where they were able to pass along their tips to the many adults tuned in throughout the viewing area.
- The creativity of staff at KNIN-TV in Boise, Idaho, provided Northwest Children's Home with an award-winning PSA, which uses animation to show the safe haven the organization represents for troubled girls. These animated drawings have become the "face" of the group's brand. The detailed process of creating the PSA started with the station arranging for still photos to be taken of models; these photos were transformed into line drawings and, finally, animation accompanied by a voiceover that explains what the organization does and how the community can support it. The station has played the PSA year-round for 3 years, updating it as needed. In the upcoming year, when the children's home celebrates its 100th year, the station will provide 30-second spots that feature the achievement. Northwest Children's Home also receives inclusion of its events and fundraisers on the station's community calendar and a link to the organization from the station's website.<sup>1</sup>

#### **IV. Broadcasters Are Looking Ahead to the Next 20 Years of Children's Television**

Broadcasters remain fully committed to providing quality children's educational and informational programming. Simultaneously with their on-going efforts to serve children and the public interest, local broadcasters are striving to ensure economic survival during these challenging times for broadcast stations and, indeed, for all

<sup>1</sup> Numerous other examples of broadcasters' service to their communities generally and to children specifically can be found at <http://www.broadcastpublicservice.org/campaigns.asp>.

advertising-supported media. Television stations are developing exciting new digital applications, such as new free, digital channels and Mobile DTV, to retain and attract viewers in a rapidly changing media environment. If anything, reaching young viewers may be broadcasters' greatest challenge because children and teenagers today routinely utilize other media, especially DVDs, the Internet and video games.

Clearly, the electronic media landscape has changed dramatically since the Children's Television Act of 1990<sup>2</sup> was first enacted. According to SNL Kagan, in 1990 cable and satellite penetration was at less than 58 percent; today it is at nearly 84 percent. Full time children's cable channels such as Nickelodeon, Noggin' and the Disney Channel were not available. The Internet and its vast offerings simply did not exist for consumers. In addition to all the child-oriented video programming available through other platforms, broadcasters are providing an abundance of high quality programming meeting the needs of children, as detailed in NAB's attached comments to the FCC. And of course in any discussion of children's television, we must make special mention of the educational programming aired by our non-commercial educational stations, which have enriched the lives of American children with programs such as *Sesame Street*, *Clifford the Big Red Dog* and *Maya and Miguel*. Public television stations have also begun to utilize their multicasting capabilities to aim channels at child audiences.

Today, children and parents have at their disposal a multitude of broadcast and non-broadcast choices for video programming specifically designed for children. Technological developments will also continue to aid parents in selecting appropriate video programming for their children. We agree with Senator Pryor about the importance of continued innovation in this area. Both NAB and ION are participating in the FCC's current examination of parental control technologies, on which the agency will report to Congress later this year. The television industry voluntarily developed the current TV parental guidelines over a decade ago as a simple-to-use ratings system to help parents manage the television viewing of their children. The industry has invested substantial resources in educating parents about the ratings system and the V-chip, and has established a Monitoring Board to respond to consumer questions and complaints about the guidelines and to help ensure that the ratings are applied as accurately and consistently as possible to television programs. As a result of these efforts, the overwhelming majority of parents are aware of the guidelines and the V-chip, and the vast majority of parents using these tools find them to be helpful in managing their children's television viewing.<sup>3</sup>

Furthermore, there are a number of other tools available to parents today (including cable and satellite set-top boxes) for monitoring their children's viewing of video programming. Additional tools are coming to market for a variety of video platforms, and the government can play an important role in encouraging the use and development of such technologies. However, government intervention, in the form of a mandatory ratings system or technology mandates, would likely deter innovation and investment in new solutions and limit parental options for supervising their children's television viewing.

In light of all these developments, broadcasters urge this Committee to look carefully at how children receive their educational, informational as well as entertainment programming in the current diversified, online and broadband-enriched environment. Policymakers must take all these far-reaching technological and marketplace changes into account when evaluating the children's programming requirements placed on local television stations.<sup>4</sup> Given today's diverse array of video options, children may well prefer to receive their programming from non-broadcast sources such as cable channels dedicated to kids' programming, DVDs or on-line. Thus, children's programming regulations applicable only to local television stations may not serve child audiences or the public interest effectively.

If this Committee were to consider changes to the Children's Television Act, it should examine the full range of video content—both broadcast and non-broadcast—available to children and their parents today before taking action. Only after carefully examining today's diverse digital, multichannel, multi-screen video marketplace could Congress make reasoned determinations about any need for and the costs and benefits of altering the obligations imposed on the Nation's free, over-the-

<sup>2</sup>Children's Television Act of 1990, Pub. L. No. 101-437, 104 Stat. 996-1000, *codified at* 47 U.S.C. §§ 303a, 303b, 394.

<sup>3</sup>See The Henry J. Kaiser Foundation, *Parents, Children and Media: A Kaiser Family Foundation Survey*, at 8, 10, 20-21 (June 2007).

<sup>4</sup>See, e.g., Children's Television Report and Policy Statement, 50 FCC 2d 1, 23-24 (1974), *aff'd sub nom. Action for Children's Television v. FCC*, 564 F.2d 458 (D.C. Cir. 1977) (when examining the state of children's programming in the 1970s, the FCC looked at the three commercial television networks, network-affiliated stations, independent stations, public television stations "[w]here available," and syndicators producing programming for these stations).

air broadcasters. In this regard, I note that the FCC has already adopted new rules that apply the Children's Television Act to the digital age.<sup>5</sup>

Broadcasters deeply value our commitment to America's children and we will continue to create programming to serve their needs in the digital age. I thank you very much for the opportunity to appear before this Committee and I look forward to answering any questions this Committee may have.

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Before the

**FEDERAL COMMUNICATIONS COMMISSION**

**Washington, DC 20554**

Children's Television Obligations of Digital Television Broadcasters

MM Docket No. 00-167

**Comments of the National Association of Broadcasters**

National Association of Broadcasters  
1771 N Street, NW  
Washington, DC 20036  
September 4, 2007

Marsha J. MacBride  
Jane E. Mago  
Jerianne Timmerman

**Executive Summary**

The National Association of Broadcasters ("NAB") hereby responds to the Commission's *Public Notice* regarding the status of children's television programming. NAB continues to share the Commission's goal of promoting quality educational and informational children's programming. In enacting the Children's Television Act of 1990 ("CTA"), Congress enlisted broadcasters to advance the Nation's interest in educating its youth. As shown by NAB, broadcasters, who have provided beneficial free over-the-air programming for America's youth since the inception of television, are today providing more high-quality, diverse educational and informational programming for children than ever before, and are amply meeting the needs of these young viewers. Television broadcasters are fulfilling the goals of the CTA both by offering programming specifically designed to serve the educational and informational needs of children, as well as programming aimed at broader audiences that nonetheless serves those needs.

Furthermore, parents have abundant additional choices, beyond the services provided by the Nation's commercial broadcast stations, of educational and informational programming that is specifically designed to meet children's unique needs. These choices include programming on noncommercial broadcast stations; children's programming carried on numerous cable/satellite channels and on-demand from cable/satellite systems; programming and content available via the Internet; and child-oriented DVDs and videos. This is a sea change in the amount, quality and availability of children's programming since the adoption of the CTA.

In light of this strong record of services and options, as well as bedrock First Amendment principles counseling a light regulatory touch in the area of program content, the Commission should adhere to its long-standing practice of relying on broadcasters' good faith judgments as to whether programming serves the educational and information needs of children. Given the Commission's extremely limited authority to adopt rules significantly implicating program content, regulations increasing its oversight regarding whether particular programs meet children's educational and informational needs would raise serious First Amendment concerns.

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<sup>5</sup> See *In the Matter of Children's Television Obligations Of Digital Television Broadcasters*, Second Report and Order and Order on Reconsideration, MM Docket No. 00-167 (Sept. 29, 2006) (the FCC established quantified E/I guidelines for each multicast digital channel broadcast free over-the-air; limited the display of Internet website addresses during children's programming; and revised its policies on promotions during children's programming with respect to commercial limits). This Order was the result of the collaborative efforts of industry, government and advocacy groups.

**Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, DC 20554**

Children's Television Obligations of Digital Television Broadcasters  
MM Docket No. 00-167  
To: The Commission

**Comments of the National Association of Broadcasters**

The National Association of Broadcasters ("NAB")<sup>1</sup> hereby submits these comments in response to the Commission's *Public Notice* regarding the status of children's television programming.<sup>2</sup> NAB continues to share the Commission's goal of promoting quality educational and informational children's programming. In enacting the Children's Television Act of 1990 ("CTA"), Congress, as the Commission previously has recognized, "enlisted the creativity of broadcasters to advance the Nation's powerful interest in educating its youth."<sup>3</sup> As discussed in detail below, broadcasters, who have provided beneficial free over-the-air programming for America's youth since the inception of television, are today providing more high-quality, diverse educational and informational programming for children than ever before, and are amply meeting the needs of these young viewers. Furthermore, parents have abundant additional choices, beyond the services provided by the Nation's commercial broadcast stations, of educational and informational programming that is specifically designed to meet children's unique needs. This is a sea change in the amount, quality and availability of children's programming since the adoption of the CTA. In light of this strong record of services and options, as well as bedrock First Amendment principles counseling a light regulatory touch in the area of program content, the Commission should adhere to its long-standing practice of relying on broadcasters' "good faith judgments" as to whether programming serves the educational and informational needs of children.<sup>4</sup>

**I. Broadcasters Are Providing an Abundance of High Quality, Diverse Programming That Amply Meets the Educational and Informational Needs of Children**

As the *Public Notice* explains, the CTA requires the Commission, in its review of each television broadcast station's license renewal application, to "consider the extent to which the licensee . . . has served the educational and informational needs of children through the licensee's overall programming, including programming specifically designed to serve such needs."<sup>5</sup> In enacting this mandate, Congress recognized, as the Commission itself has acknowledged, that broadcasters should be afforded "flexibility in determining how to meet their obligation to children."<sup>6</sup> Allowing broadcasters to rely on "general audience programming" to at least partially satisfy their statutory duty is an important part of the flexibility that Congress intended to provide, as the Commission itself has stated.<sup>7</sup> It is plain that, in consid-

<sup>1</sup>NAB is a nonprofit trade association that advocates on behalf of more than 8,300 free, local radio and television stations, as well as broadcast networks, before Congress, the FCC and other Federal agencies, and the Courts.

<sup>2</sup>*Commission Seeks Comment on the Status of Children's Television Programming*, DA 07-1716, MM Docket No. 00-167 (rel. Apr. 17, 2007) ("Public Notice"); see also *Extension of Time to File Comments on the Status of Children's Television Programming*, Public Notice, DA 07-2287, MM Docket No. 00-167 (rel. May 31, 2007).

<sup>3</sup>*Policies and Rules Concerning Children's Television Programming*, Report and Order, 11 FCC Rcd 10660, 10663 (¶8) (1996) ("1996 Children's Television Report and Order").

<sup>4</sup>47 C.F.R. § 73.671, Note 1 (2007); see also *1996 Children's Television Report and Order*, 11 FCC Rcd at 10663 (¶7) (referencing the need to ensure that the children's programming rules are "appropriately tailored to provide flexibility for broadcasters" in order for them to pass constitutional muster); *Policies and Rules Concerning Children's Television Programming; Revision of Programming Policies for Television Broad. Stations*, Notice of Proposed Rulemaking, 10 FCC Rcd 6308, 6341 (¶66) (1995) (recognizing that the Commission, in adopting requirements related to broadcast content, must carefully "consider any limitations imposed by the First Amendment of the Constitution") ("*1995 Children's Television NPRM*").

<sup>5</sup>Public Notice, ¶2 (quoting 47 U.S.C. § 303b).

<sup>6</sup>*1996 Children's Television Report and Order*, 11 FCC Rcd at 10672 (¶24) (citing 136 Cong. Rec.S. 10121 (daily ed. July 19, 1990) (remarks of Sen. Inouye)).

<sup>7</sup>See 47 U.S.C. § 303b (directing FCC to focus on licensee's service of educational and informational needs of children via "overall programming, including programming specifically designed

Continued

ering whether the goals of the CTA are being met, the FCC must consider not only programming that is specifically directed at the educational and informational needs of children and meets other specified criteria (referred to as “Core Programming”), but also other programming that serves those needs. After all, children can clearly benefit from programming that may not fit within the Commission’s definition of Core Programming; for example, programming that is aimed at a broader audience or is not regularly scheduled can obviously educate and inform young viewers.

The statutory requirement that the Commission expressly consider children’s programming issues in the license renewal process was adopted based on Congress’ finding—made in reliance on a record that is now nearly two decades old—that market forces were not at that time sufficient to ensure that commercial television stations would provide a sufficient quantity of children’s educational and informational programming.<sup>8</sup> Today, however, it is clear that broadcasters (as well as many other players in the video marketplace, *see infra* Section II) are serving the needs of children by providing a wide array of high-quality, diverse programming. The programs below provide but a few examples of the educational and informational fare that is currently aired by the Nation’s broadcasters.

- NBC Weather Plus, a twenty-four-hour multicast weather programming channel, offers “Weather Plus University,” that provides educational programming about the weather and earth sciences geared to teenagers. One segment featured a lesson on how geysers erupt, and another showed viewers how to make snow. Shows are hosted by NBC Weather Plus meteorologists and reporters, and feature an entertaining combination of taped vignettes and timely segments designed to show young people how and why the weather changes, how forecasters try to predict the weather, the nature and scope of significant weather events, and how teens can better understand or react to weather, both in their hometowns and around the world.<sup>9</sup>
- NBC, ION Media Networks, Scholastic Media, Classic Media and Corus Entertainment have formed Qubo to acquire and create children’s programming. Qubo programming currently airs on NBC and ION stations in English and on Telemundo stations in Spanish, and is targeted at children four to 8 years of age. These programs, including “Veggie Tales” and “Jacob Two-Two,” emphasize problem solving issues of daily living—such as getting along with friends and family, how to accept responsibilities and fulfill obligations, be honest and stand up for the truth, overcome fears, and aim for mastery of new ideas and challenges. Qubo plans to expand its children’s program offerings during the 2007 Fall season with the addition of “My Friend Rabbit,” a playful series inspired by the popular book, and “Postman Pat,” a top-rated show in the United King-

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to serve such needs”) (emphasis added); *see also* 1996 *Children’s Television Report and Order*, 11 FCC Rcd at 10672 (¶24) (citing S. Rep. No. 227, 101st Cong., 1st Sess., at 3 (1989) (“Senate Report”). Despite this clear statutory language, the Commission has historically focused primarily on the extent to which broadcasters provide programming that is “specifically designed” to serve children’s needs. In particular, the Commission has adopted a specific regulatory definition of “Core Programming”—*i.e.*, programming specifically designed to serve the educational and informational needs of children, among other factors. 47 C.F.R. § 73.671(c). The FCC has also adopted a “processing guideline” that permits staff-level approval of the CTA portion of the television license renewal application of any station that has provided at least 3 hours of “core programming” per week throughout its license term. *Id.* § 73.671(d). Under the “processing guideline,” the CTA portion of a station’s television license renewal application can also be approved by the staff “if the licensee demonstrates that it has aired a package of different types of educational and informational programming that, while containing somewhat less than 3 hours per week of Core Programming, demonstrates a level of commitment to educating and informing children that is at least equivalent to airing 3 hours per week of Core Programming.” *Id.* As the D.C. Circuit has recognized, however, numerical “safe harbors” such as the three-hour Core Programming requirement tend to become *de facto* rules. *See Lutheran Church-Missouri Synod v. FCC*, 141 F.3d 344, 353 (D.C. Cir. 1998) (explaining that an FCC licensing “screening device” “create[s] a strong incentive to meet the numerical goals” because “[i]n]o rational firm—particularly one holding a government-issued license—welcomes a government audit” and thus “broadcasters, in order to avoid the inconvenience and expense of being subjected to further review, will treat the guidelines as safe-harbors”) (internal quotation and citation omitted). As a result, the vast majority of broadcasters opt to provide the 3-hours per week of Core Programming.

<sup>8</sup>See Senate Report at 9.

<sup>9</sup>See NBC Weather Plus University, <http://www.weatherplus.com/university/index.html>; FCC Form 398 for WRC-TV, 2nd Quarter 2007, <http://svartifoss2.fcc.gov/KidVid/public/report/10/query.faces> (query for WRC, 2007 Q2) (last visited Aug. 23, 2007).



dom offering lessons about neighborliness and community through the adventures of a friendly neighborhood postman.<sup>10</sup>

- ION Media offers a twenty-four-hour children’s digital channel, which airs the Qubo programming described above along with other children’s programming.<sup>11</sup>
- Among other children’s programs, ABC stations air “The Replacements,” an original comedy series that features a brother and sister in their “tweens” with a fantasy-like ability to change adults (despite consequences of those changes). Geared toward kids aged six to eleven, the series features comedic hijinx of a brother and sister with fast-paced humor and quick wit to keep youngsters engaged as they watch the show’s characters attempt to change situations that viewers will likely relate to, thereby learning lessons about self-esteem and accepting responsibility for choices.<sup>12</sup>
- CBS network programming includes both animated and live action programming, including “Cake,” a live-action show-within-a-show about teenagers who produce and host a cable access show called “Cake TV,” where the teens show their audience how to take ordinary, everyday items (*e.g.*, t-shirts, CD cases, lamp shades) and make them extraordinary with a little imagination (and a glue gun).<sup>13</sup>
- Local stations, including those unaffiliated with major networks, also offer quality children’s programming. For example:
  - A large number of stations, including WJAL, Channel 68 in Hagerstown, MD, airs “Teen Kids News,” with a target audience of kids between eleven and sixteen years of age. The mission of “Teen Kids News” is to produce a weekly news program that provides information and news to children in a manner that is not only educational but also entertaining. The show features teenagers reporting the news and interviewing other children.<sup>14</sup>
  - WMAR, Channel 2 in Baltimore, MD, airs the “Kinderman Show,” with a target audience of children seven to 10 years old. The program is an interactive one in which the host introduces a different topic each week through graphical presentation, explanation and field trips in order to promote children’s intellectual and physical development, as well as educate viewers about the performing arts.<sup>15</sup>
  - A number of stations in North Carolina air “Smart Start Kids,” a locally-produced, award-winning children’s television program where preschoolers are the “stars” of the show. The children interact with show host “Willa” and travel to fun, educational places across the state of North Carolina to learn from hands-on activities and create their own memorable stories and music. Child viewers can also participate from home or a childcare center by calling

<sup>10</sup> See Qubo, Shows, <http://www.qubo.com> (last visited Aug. 23, 2007); Qubo Bounces into Fall 2007 with Exciting Slate of New and Returning Series, Entertainment World, Aug. 7, 2007, <http://entertainmentworld.us/EW1/templates/Television2.aspx?articleid=9944&zoneid=16>; FCC Form 398 for WRC-TV, 2nd Quarter 2007, <http://svartifoss2.fcc.gov/KidVid/public/report/10/query.faces> (query for WRC, 2007 Q2) (last visited Aug. 23, 2007). In addition, NBC stations previously featured “Time Warp Trio,” an action-adventure series that transports kids on journeys into history using a “magic book” that was nominated for a 2007 Emmy® Award in the category of “Outstanding Children’s Animated Program,” among their children’s programming lineup. See Discovery Kids On NBC, [http://www.nbc.com/nbc/Discovery\\_Kids\\_on\\_NBC/](http://www.nbc.com/nbc/Discovery_Kids_on_NBC/) (last visited Aug. 23, 2007); *Nominees For The Children’s Programming Emmy® Awards Announced At Kidscreen Summit*, National Television Academy, Feb. 7, 2007, [http://www.emmyonline.org/releases/pdf/34th\\_daytime\\_entertainment\\_childrens\\_noms.pdf](http://www.emmyonline.org/releases/pdf/34th_daytime_entertainment_childrens_noms.pdf). The program now airs on the Discovery Kids cable network.

<sup>11</sup> See Qubo 24/7, <http://www.qubo.com/qubo247.asp> (last visited Aug. 23, 2007).

<sup>12</sup> See ABC Medianet, *The Replacements*, [http://www.abcmmedianet.com/web/showpage/showpage.aspx?program\\_id=002082&type=lead](http://www.abcmmedianet.com/web/showpage/showpage.aspx?program_id=002082&type=lead) (last visited Aug. 23, 2007).

<sup>13</sup> See CBS Entertainment Shows, Daytime, 2007–2008 Children’s Programming, *About the Show*, [http://www.cbspressexpress.com/div.php/cbs\\_entertainment/original?id=1384&dpid=57](http://www.cbspressexpress.com/div.php/cbs_entertainment/original?id=1384&dpid=57).

<sup>14</sup> See Teen Kids News, <http://www.teenkidsnews.tv/> (last visited Aug. 23, 2007); Mike Lipton, *New Kids on the Block*, People, Dec. 13, 2004, at 159–160, available at [http://www.teenkidsnews.tv/tkn\\_people.pdf](http://www.teenkidsnews.tv/tkn_people.pdf).

<sup>15</sup> See *The Kinderman Show, Home*, <http://www.kinderman.us/home.html> (last visited Aug. 23, 2007); ABC2, *TV Listings*, <http://www.abc2news.com/entertainment/listings/default.aspx> (set time to 6:30 am and view Saturday listing) (last visited Aug. 23, 2007); FCC Form 398 for WMAR-TV, 2nd Quarter 2007, <http://svartifoss2.fcc.gov/KidVid/public/report/10/query.faces> (query for WMAR, 2007 Q2) (last visited Aug. 23, 2007).

the Smart Start toll-free phone number and sharing their own personal stories.<sup>16</sup>

Furthermore, broadcasters air a vast quantity of additional programming that, while perhaps not meeting the FCC's definition of Core Programming, satisfies children's educational and informational needs. For example, seventy television stations throughout the country—ABC, NBC, CBS and FOX affiliates—air the Emmy® award-winning “Connect with Kids” series of half-hour specials, which feature real kids sharing their true stories about important topics, including issues such as teenage depression, risky teenage behavior, drug abuse, literacy, and school attendance.<sup>17</sup> “K.E.Y.S. Kids,” which airs on WMYD Channel 20 in Detroit, MI, is a locally-sponsored and -produced program designed to entertain and educate children and families about the importance of living a happy, healthy, drug-free life.<sup>18</sup> WPVI-TV in Philadelphia airs “Youth Perspective with Rick Williams,” which focuses on panel discussions of major issues affecting young people and features regular panelists from local high schools.<sup>19</sup> KXAS in Fort Worth, TX last year aired “Latin American Treasures,” a 1-hour special showcasing over 270 works of art from fourteen countries which reveals much of the Latin culture and heritage dating back to 1492 and encourages young people to explore their history and take pride in what Latin Americans have accomplished in the areas of music, dance, art and cuisine.<sup>20</sup> And KNTV in San Jose, CA, among other NBC stations, has previously aired the “Quills Literary Awards,” a special awards program designed to inspire energy and focus around the importance of reading, and will air the 2007 awards program on October 27.<sup>21</sup> Many stations also air news and weather specials that are aimed at children. KSEE in Fresno, CA, for example, recently produced an interactive weather special featuring a visit to a local classroom that had participated in an ongoing educational exchange with the station by KSEE on-air weather reporters.<sup>22</sup> Local television stations additionally include short segments targeted to children in their newscasts.

## II. Parents Today Have at Their Disposal a Multitude of Additional Choices for Programming and Products Specifically Designed to Meet the Educational and Informational Needs of Children

In addition to the substantial amount of children's educational and informational programming aired by commercial broadcasters, today's larger—and ever-expanding—multi-platform media marketplace provides a myriad of additional choices for parents and children. These programming options not only provide alternatives to the wide variety of commercial broadcast programs that serve child audiences, but also place considerable competitive pressure on commercial broadcasters to offer quality children's programming themselves. And, as the variety of platforms capable of distributing content continues to expand, the programming and service choices that are available for children and parents will grow exponentially as well.

For example, noncommercial broadcast stations affiliated with the Public Broadcasting Service (“PBS”) provide a substantial amount of children's programming. In fact, some PBS stations air children's fare for *eleven hours* each weekday.<sup>23</sup> Many

<sup>16</sup> See Smart Start Kids, <http://www.smartstartkidstv.com/kids.htm> (last visited Aug. 23, 2007). The program is produced in cooperation with the North Carolina Partnership for Children and is a three-time nominee (and one-time winner) of a MidSouth Regional Emmy® Award. See *id.*

<sup>17</sup> See Connect with Kids, The Best Family-Oriented Content on Television, <http://www.connectwithkids.com/programs/> (last visited Aug. 23, 2007); Connect with Kids, 2007–08 Connect with Kids Half-Hour Specials, [http://www.connectwithkids.com/content/aboutus/pdf/CWK\\_Half-HourSpecials.pdf](http://www.connectwithkids.com/content/aboutus/pdf/CWK_Half-HourSpecials.pdf).

<sup>18</sup> See K.E.Y.S. Kids, *K.E.Y.S. Kids TV Overview*, <http://www.keyskids.net/Keystv.html> (last visited Aug. 23, 2007).

<sup>19</sup> FCC Form 398 for WPVI-TV, 2nd Quarter 2007, <http://svartifoss2.fcc.gov/KidVid/public/report/10/query.faces> (query for WPVI, 2007 Q2) (last visited Aug. 23, 2007).

<sup>20</sup> FCC Form 398 for KXAS, 4th Quarter 2006, <http://svartifoss2.fcc.gov/KidVid/public/report/10/query.faces> (query for KXAS, 2006 Q4) (last visited Aug. 23, 2007).

<sup>21</sup> NBC 11, *Stephen Colbert To Open Quill Awards*, <http://www.nbc11.com/thequills/13413369/detail.html> (last visited Aug. 23, 2007).

<sup>22</sup> FCC Form 398 for KSEE, 2nd Quarter 2007, <http://svartifoss2.fcc.gov/KidVid/public/report/10/query.faces> (query for KSEE, 2007 Q2) (last visited Aug. 23, 2007).

<sup>23</sup> See, e.g., WETA, WETA TV 26 Schedule, [http://www.weta.org/tv/whatson/index.php?station=WETA&time=All+Day&fromtime=true&sd\\_ate=&cal\\_month=08&cal\\_year=2007](http://www.weta.org/tv/whatson/index.php?station=WETA&time=All+Day&fromtime=true&sd_ate=&cal_month=08&cal_year=2007) (last visited Aug. 23, 2007). In August of 2007, for example, Washington, DC's WETA Channel 26 aired children's shows beginning at 7 a.m., with “Between the Lions” (an award-winning series designed to foster the literacy skills of four- to seven-year olds, see About the Program, <http://pbskids.org/lions/parentsteachers/program/summary.html> (last visited Aug. 23, 2007)), and ending at 6 p.m., with “Arthur” (another award-winning series that is designed to encourage four- to eight-year-olds to develop an interest in reading and writing, and to encourage positive

also have begun to multicast children's programming on additional digital streams, providing still more choices for educational and informational programming.<sup>24</sup> And, in the many markets where viewers have access to more than one PBS station, there may be multiple showings of PBS children's programs at various times throughout the day.<sup>25</sup>

On top of commercial and noncommercial broadcast offerings, there are now many more children's programming networks offering educational content carried by cable, DBS and other multichannel video programming distributors ("MVPDs") than ever before in history. These include: Discovery Kids (which airs a daily, commercial-free, award-winning "Ready Set Learn!" preschool programming block);<sup>26</sup> Noggin (a commercial-free educational channel dedicated to preschoolers that airs 12 hours a day, 7 days a week);<sup>27</sup> Nickelodeon (which airs children's educational shows such as "Blue's Clues," "Dora the Explorer," "Go Diego, Go!," and the new series "Yo Gabba Gabba," a fun live-action program for young children that is designed to teach simple life lessons and get parents and children up off the floor to dance and sing along);<sup>28</sup> The Disney Channel (with its morning "Playhouse Disney" block designed to teach preschoolers a variety of skills);<sup>29</sup> and PBS KIDS Sprout (a partnership between Comcast Corporation, HIT Entertainment, PBS, and Sesame Workshop that provides programming for two- to five-year olds).<sup>30</sup> In addition, the Sorpresa! network, America's first Hispanic children's television network, is now widely available on cable, DBS, and other platforms.<sup>31</sup> On top of these networks that air scheduled children's programming, there is also an abundance of children's programming that is now available on an on-demand basis from cable and DBS operators.<sup>32</sup> As the FCC has found, almost 86 percent of the Nation's television households subscribe to an MVPD, meaning that these programming sources are widely available.<sup>33</sup>

On top of the choices available through MVPDs, the 81.2 percent of American households with DVD players and the 79.2 percent of American households with VCRs<sup>34</sup> have access to still more and, indeed, almost *unlimited*, options for chil-

social skills, see About the Program, <http://pbskids.org/arthur/parentsteachers/program/program-summary.html> (last visited Aug. 23, 2007).

<sup>24</sup> See WETA, WETA Family Schedule, [http://www.weta.org/tv/whatson/index.php?station=FAMILY&time=All+Day&fromtime=&sd ate=&cal\\_month=08&cal\\_year=2007](http://www.weta.org/tv/whatson/index.php?station=FAMILY&time=All+Day&fromtime=&sd ate=&cal_month=08&cal_year=2007) (listing additional children's shows on WETA's "Family" programming stream (channel 26.3) from 6 a.m. to 7:30 a.m. and 12 p.m. to 1:30 p.m.) (last visited Aug. 23, 2007); Maryland Public Television, Program Schedule, <http://www.mpt.org/schedule/> (set channel to MPT Select, MPT V-me, and MPT HD) (last visited Aug. 23, 2007) (listing numerous children's shows on the programming lineups of three Maryland Public Television ("MPT") digital and high-definition program streams, including Spanish-language children's programs from the new V-me network).

<sup>25</sup> In Washington, D.C., for example, many viewers have access to both WETA and MPT stations, including WMPB, WMPT, WFPT, WWPB, WCPB, and WGPT. WETA airs "Sesame Street" at 10 a.m., while MPT stations air it at 9. See [http://www.weta.org/tv/whatson/index.php?station=WETA&time=All+Day&fromtime=true&sd ate=&cal\\_month=08&cal\\_year=2007](http://www.weta.org/tv/whatson/index.php?station=WETA&time=All+Day&fromtime=true&sd ate=&cal_month=08&cal_year=2007) (last visited Aug. 23, 2007); <http://www.mpt.org/schedule/home.cfm?thisday=2007-8-23&channel=selected-mptv> (last visited Aug. 23, 2007).

<sup>26</sup> Discovery Kids, <http://kids.discovery.com/> (last visited Aug. 23, 2007); Disney Communications, <http://corporate.discovery.com/brands/discoverykids.html> (last visited Aug. 23, 2007).

<sup>27</sup> Noggin, <http://www.noggin.com/> (last visited Aug. 23, 2007).

<sup>28</sup> Nick, <http://www.nick.com/> (last visited Aug. 23, 2007); <http://www.nickjr.com/shows/yo-gabba-gabba/yo-ga-about-the-show/yo-ga-about-the-show.jhtml> (last visited Aug. 23, 2007).

<sup>29</sup> Disney Channel, <http://home.disney.go.com/tv/index> (last visited Aug. 23, 2007); Disney, *Guide for Grown-Ups*, [http://tv.disney.go.com/playhouse/grown-ups/phd\\_about.html](http://tv.disney.go.com/playhouse/grown-ups/phd_about.html) (last visited Aug. 23, 2007).

<sup>30</sup> PBS Kids Sprout, <http://www.sproutonline.com/sprout/Info/About.aspx> (last visited Aug. 23, 2007).

<sup>31</sup> Firestone Communications, <http://www.sorpresatv.com/goout.asp?u=http://www.firestoneinc.com> (last visited Aug. 23, 2007).

<sup>32</sup> See, e.g., Kids On Demand Preschool, [http://www.timewarnercable.com/CentralNY/Programming/ondemand/KOD\\_Preschool.html](http://www.timewarnercable.com/CentralNY/Programming/ondemand/KOD_Preschool.html) (last visited Aug. 23, 2007) (indicating that programming from PBS KIDS Sprout, Noggin, and BBC Kids is available on Time Warner); Optimum, *Free On Demand*, [http://www.optimum.com/io/on\\_demand/free/free.jsp](http://www.optimum.com/io/on_demand/free/free.jsp) (last visited Aug. 23, 2007) (indicating that children's programming from Nickelodeon and PBS is available on demand on Cablevision systems); Comcast ON DEMAND *Tops Three Billion Views*, Comcast, Sept. 6, 2006, <http://www.cmcsk.com/phoenix.zhtml?c=118591&p=irol-newsArticle&ID=902620> (indicating that Comcast's On Demand programming includes programs from PBS KIDS Sprout, Nickelodeon, Cartoon Network, Boomerang, Noggin and Discovery Kids).

<sup>33</sup> *Annual Assessment of Competition in the Market for the Delivery of Video Programming*, 21 FCC Red 2503, 2506 (¶ 8) (2006) ("Twelfth Annual MVPD Competition Report").

<sup>34</sup> See *Nielsen Study Shows DVD Players Surpass VCRs*, Nielsen Media Research, Dec. 19, 2006, available at <http://www.nielsenmedia.com>. The FCC has reported that, as of 2004, 90 per-

Continued

dren's educational and informational programming.<sup>35</sup> At the end of 2005, 95 percent of households with children under 13 had at least one DVD player, and many children even have DVD players in their rooms.<sup>36</sup> In addition, the Internet, widely available not only through residential Internet access subscriptions<sup>37</sup> but also in public libraries, offers still more choices for programming and other children's content. For example, the increasing popularity of MP3 players has spawned a wide variety of podcasts for children.<sup>38</sup> And, of course, there are thousands more websites devoted to educating and informing the Nation's youth in other ways, through interactive lessons, games, and downloadable tools for parents, teachers, and children.<sup>39</sup>

The fact that all of these varied sources of educational and informational programming and products exist *over and above* the substantial amount of such programming that is available on free, over-the-air television demonstrates without doubt that the needs of child audiences are being met in today's multimedia marketplace. And of course the amount of children's programming on broadcast television is increasing because digital broadcasters offering multicast programming streams must air additional core programming. It is also important to bear in mind that media and technology make up only a small part of the mix of elements—including school, family life, entertainment, and play—that vie for the attention of, and contribute to the educational and social development of, today's youth. Broadcasters, for their part, are continuing to serve child audiences by offering a wide variety of choices in commercial television programming.

### III. The Commission Should Adhere to its Long-standing Practice of Relying on Broadcasters' Good Faith Judgments Regarding Whether Programs Serve the Educational and Informational Needs of Children

The Commission has long relied on broadcasters' "good faith judgments" regarding whether particular programming serves the educational and informational needs of children.<sup>40</sup> This approach has served the Commission, broadcast stations, and the viewing public remarkably well, as broadcasters, who take seriously their special historical role of service to their local communities, have provided and today continue to provide quality educational and informational programming for children. In light of this strong record of service, as well as the numerous other sources of children's programming available in the modern video marketplace, NAB respectfully submits that the Commission should adhere to its long-standing practice of reliance on the good faith judgment of broadcasters. Moreover, principles underlying the Administrative Procedure Act and, more importantly, the First Amendment, counsel strongly in favor of such adherence.

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cent of U.S. television households had at least one VCR and nearly 75 percent had at least one DVD player, and that household penetration of DVD players was predicted to reach 80 percent by the end of 2005. *Twelfth Annual MVPD Competition Report*, 21 FCC Red at 2569 (¶141).

<sup>35</sup> A search on *Amazon.com* for DVDs in the "Kids & Family" category, for example, yielded 20,514 results.

<sup>36</sup> *Holiday Gift Ideas*, ICR, Nov. 17, 2005, [http://www.icrsurvey.com/Study.aspx?f=DEG\\_Holiday\\_Gift\\_Ideas\\_1105.html](http://www.icrsurvey.com/Study.aspx?f=DEG_Holiday_Gift_Ideas_1105.html).

<sup>37</sup> The FCC has reported that, as of June 2005, there were 70.3 million residential Internet access subscribers. See *Twelfth Annual MVPD Competition Report*, 21 FCC Red at 2509 (¶18). The Pew Institute found that, as of April 2006, 73 percent of Americans have Internet access. See *Internet Penetration & Impact*, *Pew Internet & American Life Project*, Apr. 2006, [http://www.pewinternet.org/pdfs/PIP\\_Internet\\_Impact.pdf](http://www.pewinternet.org/pdfs/PIP_Internet_Impact.pdf). According to Arbitron/Edison Media Research, 81 percent of Americans ages twelve and older are now online, and 71 percent have the Internet at home. Bill Rose and Joe Lenski, *Internet and Multimedia 2006: On-Demand Media Explodes*, Arbitron/Edison Media Research at 10 (2006).

<sup>38</sup> Such podcasts include "Classic Fairy Tales," [www.alphadvd.com/ClassicFairyTales.htm](http://www.alphadvd.com/ClassicFairyTales.htm) (last visited Aug. 23, 2007); the "Children's Story Podcast," [www.storynory.com](http://www.storynory.com) (last visited Aug. 23, 2007); and "My Baby Monsters," <http://mybabymonsters.com/stories/archive/podcasts/> (last visited Aug. 23, 2007), to name but a few.

<sup>39</sup> See, e.g., Ask Dr. Math, <http://mathforum.com/dr.math> (last visited Aug. 23, 2007); Math Playground, [www.mathplayground.com](http://www.mathplayground.com) (last visited Aug. 23, 2007); iKnowThat.com, [www.iknowthat.com](http://www.iknowthat.com) (last visited Aug. 23, 2007); Kinder Printables, [www.kinderprintables.com](http://www.kinderprintables.com) (last visited Aug. 23, 2007); Kinder Helper, [www.kinderhelper.com](http://www.kinderhelper.com) (last visited Aug. 23, 2007); Gamequarium.com, [www.gamequarium.com](http://www.gamequarium.com) (last visited Aug. 23, 2007); HowStuffWorks, [www.howstuffworks.com](http://www.howstuffworks.com) (last visited Aug. 23, 2007); Starfall.com, [www.starfall.com](http://www.starfall.com) (last visited Aug. 23, 2007); Math Cats, [www.mathcats.com](http://www.mathcats.com) (last visited Aug. 23, 2007). Numerous Federal and state government agencies also have websites devoted to children. See, e.g., NASA Quest, <http://quest.arc.nasa.gov> (last visited Aug. 23, 2007); NASA, Space Place, <http://spaceplace.jpl.nasa.gov/en/kids/> (last visited Aug. 23, 2007); Kids.gov, The Official Kid's Portal for the U.S. Government, [www.kids.gov](http://www.kids.gov) (last visited Aug. 23, 2007); Kids' Capital, [http://kids.dc.gov/kids\\_main\\_content.html](http://kids.dc.gov/kids_main_content.html) (last visited Aug. 23, 2007); Maryland Kids Page, <http://www.mdkidspage.org/> (last visited Aug. 23, 2007).

<sup>40</sup> 47 C.F.R. § 73.671, Note 1.

As a matter of administrative law, it is elementary that regulatory intervention is inappropriate in the absence of a record establishing the existence of a problem, for “a regulation perfectly reasonable and appropriate in the face of a given problem may be highly capricious if that problem does not exist.”<sup>41</sup> Furthermore, when the Commission first decided to limit its direct scrutiny of the content of children’s programming, it appropriately recognized that the First Amendment dictates a restrained approach.<sup>42</sup> Indeed, the Commission’s authority to adopt rules significantly implicating program content—as an increase in governmental oversight regarding whether particular programs meet children’s educational and informational needs would undoubtedly do—is extremely limited.<sup>43</sup> For a content-based restriction on broadcast speech to pass constitutional muster, it must be “narrowly tailored to further a substantial governmental interest.”<sup>44</sup>

NAB agrees that the government’s interest in ensuring that the needs of child audiences are met may well qualify as a “substantial” one in the abstract. However, the Supreme Court has clearly held that the FCC does not have the power to require broadcasters to air particular program content, stating that:

[T]he FCC’s oversight responsibilities do not grant it the power to ordain any particular type of programming that must be offered by broadcast stations; for although the Commission may inquire of licensees what they have done to determine the needs of the community they propose to serve, the Commission may not impose upon them its private notions of what the public ought to hear.<sup>45</sup>

In light of the evidence that broadcasters are providing a wide array of high-quality, diverse programming that meets the educational and informational needs of children, there is simply no basis or need for the Commission to increase its oversight of programming content.<sup>46</sup> And, the large, and ever-increasing, amount of additional media and other sources of programming and products that are available to meet those needs only serve to lessen any possible justification for intruding on broadcasters’ good faith judgments, from both an administrative law and a First Amendment perspective.<sup>47</sup>

<sup>41</sup> *HBO v. FCC*, 567 F.2d 9, 36 (D.C. Cir. 1977) (citation omitted); see *ALLTEL Corp. v. FCC*, 838 F.2d 551, 560 (D.C. Cir. 1988) (finding that FCC failed to justify adoption of a rule because there was “no showing that [the] abuse” to which the rule was directed actually existed and “no showing that the rule target[ed] companies engaged in [the] abuse”).

<sup>42</sup> *1996 Children’s Television Report and Order*, 11 FCC Rcd at 10663 (¶7) (referencing the need to ensure that the children’s programming rules are “appropriately tailored to provide flexibility for broadcasters” in order for them to pass constitutional muster); *1995 Children’s Television NPRM*, 10 FCC Rcd at 6341 (¶66) (recognizing that the Commission, in adopting requirements related to broadcast content, must carefully “consider any limitations imposed by the First Amendment of the Constitution”).

<sup>43</sup> *E.g.*, *Motion Picture Ass’n of Am. v. FCC*, 309 F.3d 796, 802–03 (D.C. Cir. 2002).

<sup>44</sup> *FCC v. League of Women Voters*, 468 U.S. 364, 380 (1984).

<sup>45</sup> *Turner Broad. Sys., Inc. v. FCC*, 512 U.S. 622, 650 (1994) (internal citation omitted).

<sup>46</sup> See *supra* Section I. Recent Commission action in connection with Univision’s request for a transfer of control does not provide substantive precedent as to the definition of Core Programming. See *Shareholders of Univision Commc’ns Inc. (Transferor) & Broad. Media Partners, Inc. (Transferee), for Transfer of Control of Univision Commc’ns Inc., and Certain Subsidiaries*, Mem. Op. and Order, 22 FCC Rcd 5842 (2007). Univision did not admit to any rule violation, and the Commission did not purport to adjudicate whether violations in fact had occurred. Under these circumstances, the consent decree cannot be used as evidence of noncompliance. It has long been clear that “consent decrees constitute proof of no fact, nor any admission.” *Applications of Gross Telecasting Inc., For Renewal of Licenses*, 51 FCC 2d 313 (¶4) (1975) (quoting *Cowles Fla. Broad., Inc.*, 32 FCC 2d 436, 449 (¶30) (1971)); see also *Policy Regarding Character Qualifications in Broad. Licensing*, 6 FCC Rcd 3448 (¶6) (1991) (“[w]here . . . litigation has ended in a settlement agreement, consent decree, or acquittal and there is no admission or finding of unlawful misconduct, we believe it is generally inappropriate for us to reach legal conclusions on the basis of any stipulated facts”). Case law further makes clear that consent decrees such as Univision’s can have no legal or precedential value with respect to other broadcasters. See, e.g., *Langton v. Hogan*, 71 F.3d 930, 935 (1st Cir. 1995); *Beatrice Foods Co. v. FTC*, 540 F.2d 303, 312 (7th Cir. 1976).

<sup>47</sup> Furthermore, to the extent that the Commission *does* believe there is a problem regarding broadcasters’ compliance with the children’s programming rules sufficient to justify increased oversight, it would be required to provide broadcasters with clear notice regarding the substance of the alleged problem, by explaining *why* the Commission thinks that certain programs do *not* serve children’s educational and informational needs. As the D.C. Circuit has instructed, “[t]raditional concepts of due process incorporated into administrative law preclude an agency from penalizing a private party for violating a rule without first providing adequate notice of the substance of the rule.” *Satellite Broad., Inc. v. FCC*, 824 F.2d 1, 3 (D.C. Cir. 1987) (citing *Gates and Fox Co. v. OSHRC*, 790 F.2d 154, 156 (D.C. Cir. 1986)). When, as here, First Amendment rights are implicated, even greater specificity is required. See, e.g., *Smith v. Gogven*, 415

The Commission's original and wise decision to credit broadcasters' judgments as to the nature of specific programming in terms of its educational and informational value for children has worked well in practice, to the benefit of viewers, and at the same time has honored these important legal principles.

#### IV. Conclusion

Educating and informing the Nation's children is a laudable goal, and is a goal that NAB shares with the Commission. It is clear that commercial broadcasters are doing much to meet the needs of children, and that there are an overwhelming number of additional resources available today—via alternative programming sources, DVDs and videos, the Internet, and many others—for parents and children. In light of this vast array of options, there is no need for the Commission to intrude further into the judgments made by television broadcasters about the content of children's programming, and, indeed, the First Amendment strongly counsels otherwise.

Respectfully submitted,

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MARSHA J. MACBRIDE  
JANE E. MAGO  
JERIANNE TIMMERMAN

The CHAIRMAN. Thank you, sir.

And now, Ms. Cyma Zarghami, President of Nickelodeon and MTVN Family Group, from New York.

#### STATEMENT OF CYMA ZARGHAMI, PRESIDENT, NICKELODEON AND THE MTV NETWORKS KIDS AND FAMILY GROUP

Ms. ZARGHAMI. Thank you, Chairman Rockefeller, for inviting me to be part of today's hearing. My name is Cyma Zarghami, and I am President of Nickelodeon, and I will be buying a house in West Virginia shortly.

[Laughter.]

Ms. ZARGHAMI. I have been working at Nickelodeon for 24 years, basically half my life. When I first came to Nickelodeon, cable TV was relatively new, and you still had to get off the couch to change the channel.

I was at Nickelodeon when the Children's Television Act was written. The media landscape, as you've heard from my colleagues, was a very different place then. Kids basically watched TV on broadcast networks on Saturday mornings, or on weekdays in syndication. The latchkey kid phenomenon had just begun. There were much smaller percentages of divorced and two-working-parent families, and channels like the Cartoon Network did not even exist. Ninety-nine percent of Nickelodeon's content came from Canada, and "My Three Sons" was the top-rated program in prime time on Nickelodeon.

Today, I have three sons. Nickelodeon is 30 years old, it produces close to 100 percent of its own content, and we've been the number one-rated cable channel for 15 straight years.

It has been the opportunity to serve kids that has kept me here this long. Nickelodeon was created originally to serve older kids who were watching a lot of adult-targeted TV. It was also meant

U.S. 566, 573 (1974); *see also Hill v. Colorado*, 530 U.S. 703, 732 (2000) (a regulation of speech is unconstitutionally vague if it "fails to provide people of ordinary intelligence a reasonable opportunity to understand what conduct it prohibits" or if it "authorizes or even encourages arbitrary and discriminatory enforcement").

to be a place where kids could relax and laugh, because we knew that it was tough to be a kid in a grownup's world. And it still is.

We wrote and made promises to our audience that made up our core brand attributes, and they are as true today as when we first wrote them. We put kids first, we respect them, we're inclusive of all kids, and we listen to them. We've fielded many thousands of studies over the years to better understand their lives, and I believe that has been one of the keys to our success.

Nickelodeon has always followed the guidelines set forth by the Children's Television Act, and we believe that the commercial limitations set forth in the Act have been valuable and good for the audience. We at Nickelodeon do not feel, however, the need for any additional regulation.

Today, Nickelodeon's audience ranges from preschoolers to families. We serve them all on television, online, and in many other areas. Nickelodeon's overall programming day is carefully constructed to serve the audience that is prevalent in that day part: mornings are for preschool, afternoons for bigger kids, and evenings are for families.

For older kids, we always strive to tell authentic and relatable stories that allow them to feel good about themselves. On Nickelodeon, they see kids that look like them, dealing with universal kid issues on shows like *iCarly* and *True Jackson, VP*.

For families, we just added an hour of prime-time programming, starting at 8 p.m., with Emmy- and Peabody-Award winning *Malcolm in the Middle*. Recent research we conducted told us that kids and parents want to spend more time together. We've seen co-viewing increase on shows like *George Lopez* and *Home Improvement*, and we couldn't be more pleased that families are gathering to watch our shows together.

At the other end of the spectrum, Nickelodeon has been making gold-standard preschool programming for 15 years, with shows like *Blue's Clues*, and *Dora the Explorer*. Recently, parents told us that they wanted more quality educational programming in the evening hours, so last year we extended our commercial-free preschool channel, *Noggin*, to 24 hours, and the response has been terrific. Between Nickelodeon and *Noggin*, we air 200 hours of educational content a week. And you should know that each episode of shows like *Dora the Explorer* and *Diego* cost approximately \$650,000 to produce.

We also promised kids that we would celebrate the important moments of their lives with them, as well as address issues in the world that affect them. We created the Kids Choice Awards to allow kids to vote for the people and things that they love in entertainment, and it has grown to become a version of the Oscars for kids.

*Nick News*, on the other hand, with Linda Ellerbee, has been on our channel for 17 years, and has helped explain major news events that impact kids in a kid-appropriate way. And, since 1988, we've let kids have their own vote for President. It's one of our favorite campaigns, that teaches kids about how our country chooses its President. And it happens, usually, before the Presidential election, and kids just about always predict the actual winner.

Our pro-social initiatives, like The Big Help and Let's Just Play, have helped inform, empower, and activate kids about everything, from how they can improve their neighborhoods, the environment, and their own personal health and wellness. And every year, we select a day to go off the air and offline to remind kids to go outside, be active, and play.

Thanks to our affiliate partners, we have followed our audience as they've moved toward new technologies and platforms. This generation of kids seamlessly navigates between television, online, and mobile for entertainment. Today, a child or a parent can watch a Nickelodeon program at its scheduled time on television, on Video on Demand, on the Internet, from iTunes, or use a digital video recorder to store hours of self-selected programming. These new platforms are growing in numbers as they serve the needs of the consumer, and families in particular.

We have a multitude of safety tools on all of our websites, including a partnership with the National Center for Missing and Exploited Children.

I believe that today's generation of children and parents are being far better served with quality programming and pro-social initiatives than any previous generation. In my 25 years in this business of serving kids, I've met hundreds of executives, like many here today, who are devoted to doing right by this audience. And, after 30 years, we at Nickelodeon have a generation of young parents who knew us when they were kids, and understand what to expect when they allow their kids to access our content. We've earned their trust, and look forward to continuing to earn it, moving forward in years to come.

Thank you.

[The prepared statement of Ms. Zarghami follows:]

PREPARED STATEMENT OF MS. CYMA ZARGHAMI, PRESIDENT, NICKELODEON AND THE  
MTV NETWORKS KIDS AND FAMILY GROUP

Thank you, Chairman Rockefeller and Ranking Member Hutchison for inviting me to be a part of today's hearing. My name is Cyma Zarghami, and I am President of Nickelodeon and the MTV Networks Kids and Family Group. I am proud to say that I have been with Nickelodeon for 24 years, beginning as a data entry clerk, and now work on a wide range of programs including *Dora The Explorer*, *SpongeBob SquarePants*, *Rugrats* and Bill Cosby's *Little Bill*. I've also worked on our pro-social initiatives, such as our Kids Pick the President Campaign. During my time at Nickelodeon, I have watched the American family change and our networks grow in amazing and important ways. So I am excited to share our story with the Committee this afternoon.

Nickelodeon's Kids and Family Group is comprised of four television networks: the flagship Nickelodeon channel; Noggin, The N, and Nicktoons.<sup>1</sup> The Group also includes online, digital, consumer products and recreation businesses focused on children and families.

Nickelodeon was launched 30 years ago and it has been the #1 rated cable network for the past 15 years, reaching over 98 million American households. It is the most widely distributed channel in the world and can be viewed in over 175 countries. Evenings on Nickelodeon are called Nick-at-Nite and feature family-friendly fare like the Emmy-winning *Malcolm In the Middle* and *The George Lopez Show*, which our research shows many children co-view with their parents. Mornings on Nickelodeon feature educational programming for pre-schoolers.

In 1999, in partnership with Sesame Workshop, we launched Noggin, initially as a 12 hour per day channel for pre-schoolers. Now, the channel provides commercial-

<sup>1</sup>Nickelodeon has announced plans to rename Noggin as Nick Jr. and The N as TeenNick on September 28, 2009.



free programming for pre-schoolers 24 hours per day, 7 days a week. *Every program that appears on Noggin, 24 hours per day, is educational/informational content specifically designed to serve the needs of pre-school children.* We do this without any government requirement (and without accepting traditional commercial advertisements)—not because we have to, but because it's the right thing to do for kids and their families. We take great pride in serving pre-schoolers and offering content that is curriculum-based and of the highest quality. Today, Noggin ranks as parents' favorite media brand for pre-schoolers.

In addition to Nickelodeon and Noggin, we also program Nicktoons, our home to animated programs, and The N, a network for teens.

At the outset I want to say that Nickelodeon is 100 percent focused on children. At our core, we believe that what's good for kids is good for business, and that has been a guiding principle of our company ever since its inception. Our company was founded *for* kids; the founders saw children watching television and, because there were so few options, too many were watching adult programming. So we created an environment on television where kids could be kids, and where they could relax and escape from the pressures of being a kid in a grown-up world. We made a promise that day 30 years ago, and we have kept it ever since, even as we have expanded our mission to serve children at every age level. The Nickelodeon channels respect kids of all ages and tell real children's stories about real issues and real events worthy of celebration. At the same time, we also work hard to make sure that parents feel comfortable having their children learn, grow and be entertained by us. In the past 30 years, we have witnessed a generation of kids who grew up watching Nickelodeon become parents themselves, and we take great pride in knowing that these parents now can share our content with their own children.

We also recognize, as we hope the Committee does, that the media marketplace has undergone profound changes since Nickelodeon was launched 30 years ago. When I came to Nickelodeon, the latchkey kid phenomenon had just begun and there was a far smaller percentage of divorced and two wage-earner families. Kids programming was largely limited to Saturday mornings, Cartoon Network did not exist and you still had to get off the couch to change the channel.

American families today have tremendous demands on their time and consume media entertainment in vastly different ways. These families not only have access to traditional broadcast stations and cable channels, but also to an enormous array of programming via video-on-demand, through home video sales and rentals, on mobile phones, and through a multitude of Internet sites. Families today can watch a Nickelodeon program at its scheduled time on television; order a show from video-on-demand; view a video stream on the Internet; download or watch a favorite episode from iTunes or Netflix; watch a show on their mobile phone; and use a digital video recorder to store scores if not hundreds of hours of self-selected programming, literally creating a personalized video-on-demand service unique to their preferences.

In May of this year, Nickelodeon ranked # 1 in video-on-demand for kids' programming, with families viewing more than 24 million Nickelodeon programs on-demand in a single month. Families watched an additional 11 million Nick Jr. and Noggin programs on-demand in May. And that's to say nothing of the millions of streams of Nickelodeon video content that families enjoyed on the Internet. Clearly, young children cannot order on-demand content alone; parents are using technology to engage in co-viewing and to *choose* what they want their children to watch.

The advent of these new technologies has been a tremendous boon to parents, whose lives are made easier because they have more tools to determine what video content their children can see and when they can see it. From the V-chip to cable and satellite set top boxes, parents now have the ability to control the video environment in their homes. All of the programming on Nickelodeon's channels is rated pursuant to the TV ratings guidelines, and Nickelodeon has been a proud participant in The TV Boss campaign to educate parents about parental control technologies.

Importantly, children's content has flourished on cable and satellite television, as well as on these technologies, precisely because the marketplace has largely been free of government interference.

Of course, none of this would be possible without compelling content. When you turn on Noggin or Nickelodeon, what you will see is one of our award winning shows. It might be *Dora the Explorer* or *NiHao Kai-Lan* embarking on a new adventure that entertains while teaching; or it could be our critically-acclaimed Nick News with Linda Ellerbee, which gives children across the country a chance to learn about and discuss important national issues (such as when kids were able to ask questions of both Presidential candidates during last year's Kids Pick the President program).

For those of you who may not know, *Dora the Explorer* (which first aired in 2000) is a play-along, animated adventure series starring Dora, a seven-year-old Latina heroine whose adventures take place in an imaginative, tropical world filled with jungles, beaches and rainforests. Dora explores her world just as pre-schoolers do everyday, and the show is designed to actively engage its audience in an interactive quest using a variety of learning techniques. In every episode, Dora invites the audience to participate in an exciting adventure, where each step of their journey consists of a problem or puzzle that Dora and the audience must solve. Dora is proudly bilingual and uses her knowledge of English and Spanish to communicate with her friends, overcome obstacles and reach her goals. In each episode, Dora teaches a Spanish word or phrase to the viewers and then asks them to use it to solve a problem and forge ahead.

*NiHao, Kai-Lan* (which premiered last year) is also a play-along, think-along series starring Kai-Lan Chow, a playful, adventurous bi-lingual pre-schooler with a big heart. Kai-Lan, who speaks both English and Mandarin, resides in a world infused with Chinese culture—from the dumplings she eats and the lanterns that adorn her house to the huge Chinese New Year celebration she has with her family and friends. *Ni Hao, Kai-Lan* centers on Kai-Lan and her relationships with her grandfather, YeYe, and her animal friends.

Not only are these shows educational, but they help open the minds and worlds of pre-schoolers. There is a reason that millions of kids, regardless of their ethnic background, can say “thank you” and “you’re welcome” in Spanish—it is because of the lessons they have learned from watching Dora and her friends. These shows are an important bridge to help children develop an appreciation for different cultures.

Just as important as what you and your children see when you turn on an episode of Dora is what takes place behind the scenes. Hundreds of hours of research and testing goes into producing our children’s programs. The when, where, what, how and why behind Dora’s adventures are not accidental—they are born out of the expertise and input of child development experts and educators. Our expert consultants help us every step of the way, to ensure that our curriculum goals are appropriate for our target audience and that viewers understand the educational concepts. Our educational programming is thoroughly tested, and often screened by dozens of children as part of our research process, so that we can make appropriate adjustments before we show it to a wide audience on Nickelodeon or Noggin. It should be no surprise, then, that high quality educational and informational programming is extremely expensive to produce. A single, 30-minute episode of *Dora The Explorer* costs an average of \$650,000. We also engage nearly every day in voluminous research on families and children to help us understand our audience and the challenges they confront in their day-to-day lives.

Despite this cost, and again—without any governmental requirement—Noggin provides this educational content 24 hours per day, 7 days per week (in addition to the Nick Jr. educational programming block on Nickelodeon). In fact, in just 1 month, Noggin provides more educational programming than all four major broadcast networks combined air in an entire year. It bears noting, though, that we could not possibly provide this high quality programming on Noggin without the advertising we air on Nickelodeon and our other networks. While all of our kids’ channels abide by the commercial time limits imposed by the Children’s Television Act, these advertisements subsidize the programming on Noggin and Nick Jr., making it possible for us to provide these unique services. Ad revenues also serve as an important source of funding for our long-standing commitment to public service.

Our commitment to age appropriate programming extends to our shows for school age children as well. Thirty years ago, these kids had few television options and largely viewed programming intended for adults. At Nickelodeon, we responded by creating a safe viewing space that parents could trust while also being attractive to kids and teens. We promised that we would address issues that affect kids’ lives and celebrate things important to children. As times and kids have changed, we’ve adapted too, but we’ve always stayed true to our promise to kids and parents alike.

On the Nickelodeon channel today, kids watch because our programming is funny and poignant; because we inform and entertain; and because we speak *to* kids about the things going on their own lives. We help children feel good about themselves by showing them stories that let them see how others are going through the same experiences as they grow up. For example, *True Jackson, VP*, a program for teens, portrays the challenges kids face living (and working) in an adult world. True is a self-confident teen who works hard to earn the respect of her older co-workers. The show certainly presents light-hearted moments, especially in portraying the sometimes immature adults who surround True at work. But it also provides a platform for teens to experience some of the pressures of growing up by watching True meet

the challenges she faces with confidence. Like her name, the character remains true to herself no matter how she may be judged by those around her.

For tweens, *iCarly* takes full advantage of the intersection between television and the Internet by integrating video content created by the show's fans. This innovative approach to storytelling has helped *iCarly* connect directly with its core audience as it presents stories reflecting the experiences kids face in school, with their friends and in dealing with their parents.

And all children enjoy the annual *Kids Choice Awards*, which honors the stars who matter most to kids.

Beyond what we produce for cable and satellite television, beginning with *The Big Help* in 1994, Nickelodeon's commitment to the pro-social needs of children has been unparalleled. Through our award winning pro-social initiatives, we constantly try to engage children and help *empower them* to make a difference in their own lives, for their families and communities, and in the world at large. Since our inception, Nickelodeon has challenged its audience to make a difference and give back, and our viewers have answered that call. There are numerous Nickelodeon pro-social initiatives and partnerships that I could talk about; attached is a detailed list. But today I will just spend a few minutes talking about two of them: (1) our comprehensive response to childhood obesity, including our *Let's Just Play* campaign; and (2) our newest and biggest initiative to-date, *The Big Green Help*.

*Let's Just Play* has been Nickelodeon's long-term, multimedia campaign designed to help children make healthy lifestyle choices. When an issue, such as childhood obesity, becomes so prevalent that it impacts the well-being of kids, our approach is to do the necessary due diligence to ensure that our programming, initiatives and messaging will help serve our audience. Long before the media frenzy started about childhood obesity, we felt compelled to confront the issue. We met with stakeholders on all sides and educated ourselves about how best to respond. What we learned helped guide our company in our health and wellness campaigns and craft content to help children lead the way.

As part of *Let's Just Play*, we've encouraged kids to make the changes necessary to lead healthier lives. In 2007, more than 1 million kids signed up to take our *Let's Just Play Healthy Challenge* by following a nine-month healthy living program mirroring two role model kids. We partnered with the Boys & Girls Clubs of America to extend the reach of the program to millions more children in diverse communities and clubs nationwide. Our focus is not just to talk to kids about calories in and energy out. We go farther—helping children understand the underlying causes of obesity, such as lack of physical education in schools, families not spending enough quality time together, regional demographic challenges, and insufficient safe play-space in communities, to name a few. By providing children information about these causes and giving them solutions to confront obstacles they encounter, we are connecting the dots between information and action.

The cornerstone of our effort has been to activate community events and programs for kids and families in all 50 states. We're especially proud of our *Worldwide Day of Play*, which is a key element of the *Let's Just Play* campaign. This is an entire day committed to the celebration of active play. We do our part by literally taking Nickelodeon and Noggin off the air and web—going completely dark on the channels and their companion websites—for 3 hours. Many parents applaud this commitment, although some do complain that we should not be deciding unilaterally when their kids watch television. But we do this to reinforce a simple message: Turn off the television, get up, get out, and go play! Together with our partners, Nickelodeon also organizes and hosts hundreds of events annually to inspire children to go outside and be active.

Equally significant, we understand that children identify and connect with their favorite Nickelodeon characters. In order to ensure that we're consistent in encouraging healthy lifestyles, we've taken the tremendous step of limiting the use of our beloved characters to food packaging that meets "better for you criteria" established by our marketing partners in accordance with governmental dietary guidelines. Beloved characters like Dora or SpongeBob SquarePants can be seen on packaging for fruits and vegetable, including carrots, spinach, clementines, tangelos and oranges. We've taken these steps because they're the right thing to do, and because we know that being good to kids is good for business in the long run.

Last year, Nickelodeon launched its newest and biggest pro-social effort to date, called *The Big Green Help*. This global kid-led initiative provides information and tools to help explain environmental issues to kids and connect them to earth-friendly activities. The mission of The Big Green Help is simple: educate and empower kids to make earth-friendly and energy-saving activities a part of their daily lives. To give you an idea of what we're doing to educate and empower kids, I've provided

each Committee member with one of *The Big Green Help* booklets we're disseminating to kids across the country.

The decision to focus on the environment was no accident—like many of our important decisions at Nickelodeon—it came directly from listening to our audience and responding to what is important in their lives. And here's what we heard loud and clear:

- Kids are concerned about the environment but do not know how to make changes in their daily lives; and
- Kids believe they have the power to affect real change on the climate crisis.

*The Big Green Help* provides kids a bridge between the environmental issues facing our society and how they can be part of the solution. Many of us are reminded each day by our children when we drive them to school that we need to wear a seat belt. Because of *The Big Green Help*, millions of parents will now be reminded, again and again, to recycle, to turn off the water when they brush their teeth, and to buy a car with better fuel economy.

In just 1 year, *The Big Green Help* has partnered with a dozen organizations, including the Natural Resources Defense Council, National Wildlife Federation, the NFL and the U.S. Forest Service, among others, and millions of kids have pledged to take action. The first-ever global green digital gaming event resulted in more than 27 million game sessions in 2008. And in the first 6 months of 2009, *The Big Green Help* has:

- mobilized Green Teams with an all new toolkit for schools, clubs and organizations that includes curriculum and activities to help kids fulfill their Big Green Help pledges;
- celebrated kids, schools and organizations' efforts on Earth Day (4/22) by highlighting kids and events on-air and online. Over 4,500 schools and organizations hosted Big Green Help Earth Day events and kids united to Power Down across the country;
- announced a Big Green Help grants program to offer seed money to schools and organizations to build out green projects in local communities; and
- produced green-themed episodes of all of Nickelodeon's biggest hits including *iCarly*, *True Jackson, Diego*, and *Dora the Explorer*.

Just to take a quick look into the future, we are also very excited about the new *Get Schooled* partnership between Viacom (our parent company) and the Bill and Melinda Gates Foundation to focus on the education crisis in America. The campaign will combine Viacom's media properties (including our Nickelodeon channels and websites) with the key policy priorities of the Gates Foundation: increasing high school and college graduation rates, improving post-secondary readiness, and promoting the fundamental importance of education. The partnership will launch on September 8, 2009, with a 30-minute program airing across all Viacom networks. One of the cornerstones will be *GetSchooled.com*, which is designed to engage and motivate young people, parents and teachers as well as activate the public at large.

With so much support and momentum, we're excited about what's in store.

Speaking of the future, I wanted to close out my testimony by taking some time to share some of what we've learned about kids and families over the years and what we see on the horizon.

Although we have witnessed profound changes to our society over the past three decades, some things fortunately have not changed:

- for 3–17 year olds, family is everything;
- kids remain the focal point of their family's lives;
- kids and teens love their parents;
- families value their time together and will sacrifice personal pleasure to connect;
- as much as they like TV, kids, tweens and teens would rather engage in a social or physical activity;

and

- the three words that people most frequently use to define their families are "loving", "fun", and "busy."

Where we have seen change is in the role that technology plays in the lives of kids and their families. For pre-schoolers, the Internet is largely an extension of the television shows and characters they love; parents view learning to use the computer as a skill unto itself. As kids grow older, the Internet becomes an outlet to

explore personal interests, help with homework and have fun; by the time they reach their teenage years it has become an important tool for communication and self-expression through social media.

Nickelodeon provides families with a full range of websites with content targeting kids at all stages of their development. From *NickJr.com*, the leading website for parents of young kids and the #1 website for pre-schoolers, to *The-N.com*, a dynamic platform for teens with groundbreaking interactivity, there is something for everyone. We even have *ParentsConnect.com*, featuring the tagline “We’re not perfect, we’re parents,” which strives to celebrate the reality of parenthood and make parents’ lives easier. According to Nielsen, 16 million kids aged 2–11 were online in May of this year—they made up 10 percent of all Internet users in the country. That same month, nearly 7 million unique users visited *Nick.com*’s broadband video player, viewing an astonishing 125 million video streams. Nickelodeon also has begun to make its content available via mobile devices; families can get both traditional programming as well as short form episodes of their favorite shows through Verizon and AT&T phones.

Clearly, parents and children alike are telling us through their daily actions that they do not use media the same way families did a generation ago. The Internet has empowered parents and kids to decide what media is consumed. We respect that, and we support helping kids and their parents navigate the entertainment and educational opportunities available through technology. At the same time, we take online safety very seriously. We work closely with partners such as the National Center for Missing and Exploited Children (NCMEC) to incorporate age-relevant safety tools into all of our websites to ensure, to the greatest extent possible, that our sites protect our users, while providing them with the benefits of socializing online.

Specifically, for social networking features, we employ a combination of human monitors and technical solutions (such as word filtering), taking a multifaceted approach to ensuring a good experience for our users. In all of our Nickelodeon-branded sites, our monitors review user communications prior to publication; and, within our adult-directed sites, in addition to our filtering systems, monitors review communications flagged as inappropriate by other users. Our filtering systems are updated regularly. For synchronous “chatting” between users, we limit communication to a list of pre-approved, kid-appropriate words. With respect to asynchronous chatting, such as on message boards, we employ a mix of human monitors and a filter technology that flags inappropriate messages. For example, we have incorporated into our filter terms related to pedophiles from a phrase list developed by the NCMEC. In addition, when children register to our kids sites, they are asked to create a generic user name (e.g., a “Nick Name” on *Nick.com*) rather than use their real name—in fact, we discourage kids from using their real names, and if they sign up for synchronous chatting, we send confirmation e-mails to parents when their children register. And we provide links to safety guides at the bottom of all of our children’s websites, so that parents have resource to turn to when they want additional information about protecting their kids online.

As much as technology—cell phones, videogames and the Internet—has impacted the ways kids and families consume information and interact, television remains an important part of their lives. And one of the statistics that stands out for us is that, despite all of the distractions, co-viewing on kids’ cable networks does help bring families together. Families today treasure the time they spend together, want more of it, and even as they are pulled in many directions, co-viewing television—the heart of family entertainment—remains something that parents and children can enjoy with one another in their free time. Particularly exciting for us, is that Nickelodeon and Noggin are the networks that families are most likely to watch together. In 2009, these two networks have the highest percentage of adults 18–49 who are watching with kids 2–11, among all kids’ networks. In fact, co-viewing levels for kids’ cable networks are much higher than co-viewing for broadcast channels. We are proud to make programming that brings families closer.

In conclusion, I want to thank you again for giving me the opportunity to come and tell you the Nickelodeon story. In the past 30 years, we’ve witnessed a generation of kids who grew up watching Nickelodeon become parents themselves.

And of all the statistics I’ve cited today, and in the mountains of research we’ve piled up over the past three decades, perhaps the most important and gratifying thing for us is that those parents who grew up watching Nickelodeon have the greatest trust in our networks and can now share the same experiences with their own children. That trust and our honest dialogue with children mean that we often know first what will be next for kids.

We earned that trust and look forward to continuing to earn it, build it, and maintain it by providing them and millions of other families with compelling educational and entertainment programming.

It bears repeating that Nickelodeon has grown from a single channel to four networks plus distribution on the Internet, mobile phones, video on-demand and elsewhere all without any government mandate. No rule or regulation ever compelled us to invest in this incredible array of children's programming. In fact, the light regulatory touch that the government has relied on for cable and satellite channels has produced the incredible competition and options that we see today. As technology has changed, along with children's viewing habits, the Federal Communications Commission has responded by updating its commercial time limitation rules to ensure that the essential protections of the Children's Television Act are honored. Beyond that, however, we urge the Committee to recognize how competitive the children's programming market is today, and to continue to let us develop new and innovative ways to educate and entertain children without additional regulation.

#### **Summary of Nickelodeon Pro-social Initiatives**

*The Big Green Help*—*The Big Green Help* is a multiplatform campaign that provides information and tools to help explain environmental issues to kids, and taps into Nickelodeon's history of addressing important topics. *The Big Green Help* was developed from research which shows that kids believe that they can lead the way in addressing positive change for the environment. Launched Earth Day 2008, *The Big Green Help* connects families to ways they can help the environment at home, in-school and in their communities.

The centerpiece of *The Big Green Help's* 2008 campaign is the first-of-its-kind global multiplayer online green game for kids—"The Big Green Help Global Challenge." Additionally, several customized online mini-games incorporate *The Big Green Help* partner organizations—Boys & Girls Clubs of America; Girl Scouts USA; The LeBron James Family Foundation; National Wildlife Federation; Natural Resources Defense Council; National 4-H Council; and NFL. These partners help extend the campaign's reach through local grassroots activities and programs where kids can fulfill virtually volunteered hours.

For more information, visit [www.nick.com/biggreenhelp](http://www.nick.com/biggreenhelp).

*Kids Pick the President*—Nickelodeon's year-long *Kids Pick the President* campaign was conceived to educate and empower kids across the country to have a voice in the U.S. Presidential election. Kids have correctly predicted the next President in five out of the last six national elections. In 2008, more than two million kids voted in Nickelodeon's "Kids' Vote"—the most ever in the history of the campaign. The 2008 *Kids Pick the President* campaign included the first-ever kids' primary; four *Nick News with Linda Ellerbee Kids Pick the President* television specials; the 'Kids' Vote' in October; a special online election website; and for the first time, coverage of the President's Inauguration.

For more information, visit [www.nick.com/kpp](http://www.nick.com/kpp).

*Kick One, Pick One*—Continuing Nickelodeon's legacy of empowering its audience with information and tools to help better their lifestyles and communities, on Jan. 1, 2008, it launched "Kick One, Pick One". This pro-social initiative aims to encourage families to eat smarter, get fit and spend more time together. The Nick-at-Nite initiative runs on multiple platforms through: a series of public service announcements focusing on proper nutrition; getting families physically active and encouraging them to simply take time for family conversation; a website packed with information about the campaign, helpful tips and a family contract to measure their commitment; and an on-air, online and radio promotional campaign.

*Let's Just Play*—For several years, the *Let's Just Play* program has empowered kids with resources, tools and the information they need to live healthier lifestyles. Nickelodeon has committed millions of dollars and air time to health and wellness messaging, and has awarded approximately \$3 million in grants and through its "Let's Just Play Giveaway" to schools and after-school programs to help provide resources that will create and expand opportunities for physical play.

In November 2005, "Let's Just Play" entered into a partnership with The Alliance for a Healthier Generation—an initiative between the William J. Clinton Foundation and the American Heart Association—to combat the spread of childhood obesity. The three organizations combined forces on a comprehensive media and public awareness campaign, encouraging young people to engage in healthy and active lifestyles. Nickelodeon used the "Let's Just Play" campaign and its multimedia platforms, and worked with the Boys & Girls Clubs of America and other partners, to reach millions of young people across the country and spread the message of the Healthier Generation movement.

For more information, visit [www.nick.com/letsjustplay](http://www.nick.com/letsjustplay).

*Worldwide Day of Play*—Nickelodeon’s Worldwide Day of Play, part of the Let’s Just Play program, is an entire day committed to the celebration of active play. During the Worldwide Day of Play, which takes place on a Saturday, when we typically have our highest audience, we take Nickelodeon and Noggin off the air and web—going completely dark on the channels and their companion websites—for 3 hours to reinforce one simple message: turn the television off, get up, get out and go play!

Along with Boys & Girls Clubs of America, the NFL, and thousands of local schools and community-based organizations, Nickelodeon hosts hundreds of events annually that take place within communities throughout the world. Nickelodeon’s Worldwide Days of Play have inspired millions of kids to go outside and be active.

*Get Ready to Read*—Noggin is delivering on its mission to be “like preschool on TV” by committing to doing something about reading. We have made early childhood literacy a curricular priority. In partnership with First Book, we use our TV network, website and outreach to put books in the hands of kids who need them.

The network is a passionate advocate of words—all kinds of words—and uses every possible opportunity to build its audiences’ vocabulary and their own love of language. Noggin does this through song, its interstitials and a wealth of online games. The channel even goes so far as to opportunistically include phonics, rhyme and other early literacy-based content into its on-air menus and promotions.

Noggin develops and airs series, like *Pinky Dinky Doo*, that enhance preschoolers’ listening and comprehension skills as well as their understanding of narrative elements like sequence, cause and effect, setting, and character.

The *Get Ready To Read* campaign aims to build early literacy skills and awareness with the goal of generating 1 million new books for at-risk preschoolers.

*The N*—The N’s pro-social strategy has been to partner with relevant organizations that tie thematically to its programs or individual episodes. Specifically:

- *Degrassi/PAX*—The N partnered with PAX Real Solutions to Gun Violence (PAX reports that in 80 percent of school shootings, the attacker told someone before he/she committed the crime). The N created a public service announcement with Aubrey Graham (Jimmy from *Degrassi*) for PAX’s 1-866-SpeakUp, an anonymous phone line where viewers can report weapons threats at school. The PSA premiered during the episode of *Degrassi* where a school shooting took place. The PSA won a Beacon Award.
- *South of Nowhere/GLAAD*—The N’s *South of Nowhere* is the first prime time series to partner with GLAAD on its Be An Ally and Friend campaign. The cast filmed a PSA, directing viewers to the GLAAD.org site, where they could learn how to support their friends and loved ones in their coming out process. The PSA premiered on-air during the Season Two premiere of *South of Nowhere*.
- *Give Some, Get Some Auctions*—The N auctioned off items from its shows and gave the proceeds to 4 different charities during the 2006 Holiday season. For 4 weeks, viewers were directed from the air to the-n.com to bid on real items from The N original series. Each week a different show was featured. Week one (*Instant Star*) supported the Starlight Foundation, week two (*Degrassi*) the Food Bank for New York, week three (*South of Nowhere*) went to My Friend’s Place and Week Four (*Beyond the Break*) went to Oceana.

### The Big Help Legacy

Nickelodeon has a strong pro-social legacy. The company believes its responsibility to kids extends beyond offering them quality entertainment on-air and online, but to also provide them with tools and information to empower them to take action.

### A History of Service and Volunteerism

In 1994, Nickelodeon launched The Big Help, a public service campaign that connected kids to service and volunteering. The Big Help was in response to the company’s belief that if kids were connected to constructive activities early on in life, they would be less likely to engage in destructive activities later on. For many years, the Big Help brought millions of kids into the national and local volunteer infrastructure and raised the profile of the impact that kids can make with service opportunities.

The Big Help campaign broke the mold of a traditional linear television campaign and extended its reach to build a grassroots infrastructure that partnered with more than 28 national service partners. Every year, Nickelodeon held the Big-Help-A-Thon, a live 8 eight-hour on-air block where kids were encouraged to call-in and pledge volunteer hours in their communities. Over the course of the campaign, more than 33 million kids to called-in and pledged 383 million volunteer hours.

### **The Big Help's Lasting Impact**

The Big Help achieved almost total awareness among the kid demographic, changed kids' perception about their responsibility to their communities and educated and encouraged tens of millions of kids to get involved. Even after the initial launch of The Big Help, partnerships with organizations such as the American Red Cross extended past the campaign as kids continued to rally around major crises including the 2004 Tsunami and Hurricane Katrina. Today, the company's current commitment to the environment, *The Big Green Help*, is in line with the powerful pro-social legacy of volunteerism established in the 1990s with the Big Help.

### **Big Help Partners**

American Camping Association, American Humane Association, America's Promise, Big Brothers Big Sisters, Feeding America, Boys & Girls Clubs of America, Cable in the Classroom, Feed the Children, Girl Scouts of the USA, Girls Incorporated, Habitat for Humanity, The Jane Goodall Institute, Keep America Beautiful, March of Dimes, National 4-H Council, National Association of Elementary School Principals, The National PTA, National Recreation and Park Association, National Wildlife Federation, Points of Light Foundation, Second Harvest, United States Department of Education Office of the Secretary, YMCA of the USA, Youth Service America, YWCA of the USA

### **The Big Green Help**

#### **Nickelodeon Empowers Kids to Take the Lead on Environmental Action**

*The Big Green Help* is a global kid-led initiative that provides information and tools to help explain climate change to kids and connects them to earth-friendly activities in their everyday lives.

*Mission:* Educate and empower kids to make earth-friendly and energy-saving activities a part of their daily lives.

#### **Research Based**

Nickelodeon partnered with the *Pew Center on Global Climate Change* to understand kids and parents' attitudes and behaviors toward the environment.

- Kids are concerned about the environment but do not know how to make changes in their daily lives.
- Kids believe they have the power to affect real change on the climate crisis. Nickelodeon listened to kids and crafted *The Big Green Help* to connect the dots between what climate change is and how kids can be part of the solution.

#### **Who Is Involved**

Leaders in the field of youth and the environment have partnered with Nickelodeon to bring *The Big Green Help* to life with programs, activities and events in schools and clubs across the country.

- National Wildlife Federation
- Natural Resources Defense Council
- Girl Scouts USA
- The Boys & Girls Clubs of America
- The National 4-H
- LeBron James Family Foundation
- National Football League
- National Environmental Education Foundation
- National Education Association
- The U.S. Forest Service
- EARTHNEXT

#### **First Year Accomplishments**

Millions of kids around the world have joined *The Big Green Help* and committed themselves to take action on the environment. In its first year, the campaign included:

- 5 green themes to drive educational messaging: Slow the Flow, Curb the Car, Recycle/Pre-cycle, Grow the Green and SpongeBob & You Save the Big Blue
- *The Big Green Help Global Challenge* was the first-ever green global digital gaming event. Kids had the opportunity to Play, Pledge and Act as they played



the games, pledged real world hours and fulfill their pledges in communities across the country. There were over 27 million game sessions in 2008

- Almost 2 million kids pledged to take action for the environment
- Nickelodeon stars Miranda Cosgrove, KeKe Palmer, Lily Collin and J.J., as well as celebrities like LeBron James and Cameron Diaz
- Walmart partnership at launch to give out over 1.3 million seed cards on Earth Day 2008
- Cameron Diaz presented the first ever Big Green Help Award to Leonardo DiCaprio at the 2009 Kids' Choice Awards watched by 8 million kids nationwide

#### **2009 Snapshot**

The Big Green Help kicked off its second year on Earth Day 2009 with a big idea—kids everywhere united in a moment of solidarity by turning off lights. *Power Down* was part of a drive for kids to form *Green Teams* in communities worldwide where they work together to make earth-friendly choices and participate in activities.

The network did the following:

- Mobilized Green Teams with an all new toolkit for schools, clubs and organizations with curriculum and activities to help kids fulfill their Big Green Help pledges
- Celebrated kids, schools and organizations' efforts on Earth Day (4/22) by highlighting kids and events on-air and online. Over 4,500 schools and organizations hosted Big Green Help Earth Day events and kids will unite to *Power Down* across the country
- Announced a Big Green Help Grants program to offer seed money to schools and organizations to build out green projects in local communities
- Produced green-themed episodes of all of Nickelodeon's biggest hits including *iCarly*, *True Jackson, Diego*, and *Dora the Explorer*
- Incorporated Big Green Help messaging into SpongeBob 10th Birthday celebrations

#### **Looking Ahead**

Nickelodeon will continue to support kids to form Green Teams in communities nationwide and will encourage schools and organizations to apply for Green Grants.

### **Health and Wellness**

For over 6 years, Nickelodeon has championed health and wellness as its premier pro-social initiative. This effort represents a commitment of more than \$30 million in resources of the company and a filter through which the company reviews all of its business initiatives across all platforms—television, online, digital, consumer products and recreation. The issue of childhood obesity is crucial to the Nickelodeon audience, and it is the company's corporate responsibility to be part of the solution for kids and families to navigate the issue. That is why Nickelodeon has sponsored focus groups, met with governmental and regulatory agencies and commissioned a comprehensive study, *Kids, Food and Eating Behaviors*, in partnership with Yale University.

#### **Let's Just Play**

In 2002, in response to reports that kids were leading sedentary lifestyles, experiencing over-scheduling and cutbacks on PE and recess and the depletion of community resources, Nickelodeon launched the Let's Just Play campaign. Let's Just Play featured city-wide play days in communities across the country as well as a grassroots component with founding partners, the Boys & Girls Clubs of America. The goal of the campaign is to get kids to participate in free-form play and other fitness activities.

Nickelodeon continues this tradition with its annual *Worldwide Day of Play*, now in its 6th year. Nickelodeon goes dark for 3 hours and turns off all programming as a further way to amplify the importance of kids being healthy and active. In partnership with the Boys & Girls Clubs of America, National PTA and the National Football League, Nickelodeon co-hosts thousands of grassroots *Worldwide Day of Play* events across the globe.

#### **Let's Just Play Go Healthy Challenge**

In a signature partnership with the W.J. Clinton Foundation and the American Heart Association, Nickelodeon launched the Let's Just Play Go Healthy Challenge as the kids' pillar of the Alliance for a Healthier Generation. The Go Healthy Chal-

lenge is a television series and website that encourages kids to make the changes necessary to lead healthier lives by mirroring four role model kids featured in the series. These kids modeled healthy behavior and by helping kids at home understand the causes of obesity such as lack of physical education, families not spending quality time together, regional demographic challenges and insufficient safe play spaces. To bring the Go Healthy Challenge experience into the audience's homes, the on-air campaign was complemented by online resources such as a downloadable tracker to log personal progress, as well as a curriculum based on monthly themes to follow. More than 1 million kids have pledged to maintain an active and healthy lifestyle as part of the Let's Just Play Go Healthy Challenge.

To supplement the Go Healthy Challenge, Nick News with Linda Ellerbee produced special edition shows featuring reports on obesity, good nutrition and health which included a variety of perspectives from kids, experts, famous chefs and even President Clinton.

#### **Let's Just Play Advisory Committee**

Nickelodeon formed the Let's Just Play Advisory Committee, a team of experts on child nutrition, exercise, psychology and civic engagement, that worked to provide ongoing expertise in the development and implementation of the campaign.

#### **Let's Just Play Grant Program**

As a response to the hurdles and lack of resources that organizations continue to face to get kids active, Nickelodeon has given \$3 million in local seed funding for health, nutrition, physical education and other fitness programs through the *Let's Just Play Giveaway*, a kid-driven grants program. Kids partnered with their school or community-based organization to apply for grants. Winners were announced on-air and online, thereby raising awareness about the issue of resources among kids.

#### **Worldwide Day of Play—Saturday September 26, 2009**

In 2004, Nickelodeon pioneered an unprecedented commitment to health & wellness. In a bold move, Nickelodeon turned off all television programming for 3 hours to deliver a simple and clear message to kids—Turn the television off, get up, get out, and go play! To make *Worldwide Day of Play* real for kids, Nickelodeon partnered with Boys & Girls Clubs of America and local schools and community organizations nationwide to host over 650 local *Worldwide Day of Play* events in each of the 50 states and 4 countries internationally. Taking it one step further, Nick has awarded over \$2.5 million in grants to over 450 schools and community organizations to expand physical education and recreation programs.

#### **Growing the Movement**

In partnership with the W.J. Clinton Foundation, the American Heart Association, Boys & Girls Clubs of America, the NFL, Big Brothers Big Sisters of NYC, and local schools and community-based organizations, Nickelodeon continues to grow WWDDOP. In 2006, over 850 events were held worldwide. That number doubled in 2007, with over 1,700 events taking place in 15 countries. Over 250,000 kids participated in over 1,800 events in each of the 50 states, 10 NFL teams hosted WWDDOP events with their players, and NFLRush.com went dark from 12–3 p.m. This year, we seek to surpass those numbers with more events in more cities and more countries. *September 26, 2009* marks Nickelodeon's 6th annual *Worldwide Day of Play*.

#### **Highlights**

- From 12–3 p.m. EST, Nickelodeon, The N, Noggin, and Nicktoons Network turns off all programming on television and goes dark for 3 hours.
- Throughout the rest of the day, schools and organizations hosting local events are scrolled on Nickelodeon.
- Nickelodeon Kids and Family sister sites participate as well. *Nick.com*, *TheN.com*, *Nicktoonsnetwork.com*, *Noggin.com*, *NickJr.com*, Neopets, Shockwave, Quizilla, AddictingGames and Parentsconnect roadblocked access from 12–3 p.m.
- Health and wellness messaging was featured throughout the day on Nick, including new interstitials and special programming.

#### **Nick News**

*Nick News*, produced by Lucky Duck Productions, is now in its 19th year, and is the longest-running kids' news show in television history. It has built its reputation on the respectful and direct way it speaks to kids about the important issues of the

day. Over the years, *Nick News* has received more than 20 Emmy nominations and numerous Emmy wins, including last year, when "The Untouchable Kids of India" won the 2008 Prime Time Emmy for Outstanding Children's Program. In 2007, "Private Worlds: Kids and Autism" won the Emmy for Outstanding Children's Programming. In 1994, the entire series, *Nick News*, won the Emmy for Outstanding Children's Programming. In 1998, "What Are You Staring At?" a program about kids with physical disabilities, won the Emmy for Outstanding Children's Programming. In 2002, "Faces of Hope: The Kids of Afghanistan," won the Emmy for Outstanding Children's Programming. In 2004, two *Nick News* Specials, "The Courage to Live: Kids, South Africa and AIDS" and "There's No Place Like Home," a special about homeless kids in America, were both nominated for the Outstanding Children's Programming Emmy. In 2005, it won the Emmy for Outstanding Children's Programming for its show, "From the Holocaust to the Sudan." *Nick News*, produced by Lucky Duck Productions, is also the recipient of three Peabody Awards, including a personal award given to Ellerbee for her coverage for kids of the President Clinton investigation. The series has also received two Columbia duPont Awards and more than a dozen Parents' Choice Awards.

The CHAIRMAN. Thank you very much. Dora is big in our household.

Dr. James Steyer, CEO of the Common Sense Media, from San Francisco. And you came all this way, breaking into your vacation, and we thank you. But, we think it's worth it.

**STATEMENT OF JAMES P. STEYER, CEO AND FOUNDER,  
COMMON SENSE MEDIA**

Mr. STEYER. Well, I think it's worth it, too, Chairman Rockefeller. And thank you very much, to you, Senator Pryor, Senator Begich, for having us here today.

I'm also a Consulting Professor at Stanford University, where I've taught for over 20 years. I am sure I have had people from Alaska, Arkansas, and many from West Virginia, in my classes, in the last year alone, so there you go.

I'm also a dad of four kids, so I always think of that—

The CHAIRMAN. I'm leaving, I'm so embarrassed.

Mr. STEYER. OK, fair enough.

[Laughter.]

Mr. STEYER. Actually, I want to try to summarize what Chairman Genachowski said, and some of my friends and colleagues on the panel, because you were right, Chairman Rockefeller, we do all know each other on this panel. And I think I want to go back to something that you said at the end of your remarks.

To us, this is truly a transformational moment in the history of media in this country. And I believe you said, Senator Rockefeller, this really is where our Nation is headed, and I think that's correct. And I think that we need to take a look at this issue in that light; not just in the context of where we are in the Children's Television Act of 1990, but where the educational and economic future of this country is headed. Because media, on all of its various platforms that exist today, and that will exist over the next 10 or 20 years, is central to our domestic and international security and future, period.

You cannot look at the issues that we're talking about without a basic framework, so we'd just like to suggest one for you today that could inform this committee's leadership in this area. And you have demonstrated real leadership in this area. And I do believe what you said to Chairman Genachowski, that this is a new era. And I think that's critically important. But, I want to create that

framework and, in some ways, echo what Julius said earlier, in his comments. And I think it's three-fold. Basically, educate, empower, and protect, whether it's television, whether it's your apps that my 5-year-old can download on my iPhone, or whether it's John's latest ION TV on whatever device he has over there.

And let me frame that for you very simply, because I think this is it, and I think that this committee has a chance to lead this Nation into the 21st century, finally, on these issues.

When we talk about education, I think there are two key issues. First of all, there needs to be far more quality educational content distributed, not just on television but all platforms. Cyma's correct about Nickelodeon, and Mr. Lawson's correct about ION. But—the content is there, but it has to be distributed across all of the platforms. That's first.

But, the second part of education is educating kids, but also their parents and teachers, about digital literacy and citizenship. That is what the essence of this really is about, at the end of the day. We live in a digital media world, as Chairman Genachowski said on numerous occasions in his testimony, and if our kids are not digitally literate, they will not compete, they will not grow up in the right way, and we need to educate their parents and teachers in that context, as well, because they can't teacher-parent without that kind of literacy. So, that has to be part of our mission here.

We also talked—and there are—we can—in the discussion period, we can talk more, what we mean by digital literacy, and what this committee and this Nation ought to do in that regard.

Empowerment is very simple, Mr. Chairman, that's your "little red button." In fact, we're much closer to the little red button than you may realize. At Common Sense we rate and review every movie, TV show, video game, website, book, music, or whatever. Well over 10,000 titles, to date. We're in the middle of discussing whether or not we should rate all the apps on iPhones.

That's a huge editorial undertaking, but the information exists today, and the technology exists today. So, leadership, from this committee and the FCC, in empowering parents across the country to access simple, easy-to-use, third-party, nonpartisan information around media platforms, is critical. And I believe that the technology exists and the information exists, so a little leadership from this committee and from the FCC will do a ton in that regard.

We're essentially a Consumer Reports guide for media, from a kids and family perspective, and it's out there, it has to be used. We have 50–60 million users over the course of a year, now. So, your little red button can be made available to every family in this country soon.

The third element of this framework is to protect. You mentioned that in your opening remarks, Mr. Chairman, and I agree that that's critical. But, the protection element not only comes from industry leadership, from folks like Nickelodeon and others, but from this committee and from the FCC.

I teach First Amendment law at Stanford, and I very much believe that we can frame protective efforts by this committee, and by this government, that balance important First Amendment freedoms with the best interests of our kids and families. Whether it's issues like childhood obesity, that Gary talked about, or violence,

or inappropriate sexual messages during ball games I'm trying to watch with my kids, there are enormous public health issues implicit in a lot of our media today. They're not coming out of Nickelodeon, but they're coming out of adult content that kids are consuming and are sometimes creating. That protective landscape can be created and overseen by this committee, as I said, consistent with the First Amendment principles that I have to teach every year to my students at Stanford.

At the end of the day, this really is that very special moment and that transformational period you're talking about, Mr. Chairman. And this committee has an opportunity to work with people on both sides of the aisle. And one of the great aspects of the issue we're talking about today is, it is a truly bipartisan concern. This is truly an issue that Republicans and Democrats can come together on to forge a new consensus and new investment and leadership to change our kids' future.

So, I would leave you by saying, you couldn't have picked a more important topic. It's a lot—it's so important, that I was willing to give up my vacation for a couple of days. And I would urge you to think big, think dramatic, make major investments, and all of our kids will benefit from what you all do.

Thanks a lot.

[The prepared statement of Mr. Steyer follows:]

PREPARED STATEMENT OF JAMES P. STEYER, CEO AND FOUNDER,  
COMMON SENSE MEDIA

Mr. Chairman and members of the Senate Commerce Committee, thank you for allowing me to speak to you about improving media for the benefit of children in this new Digital Media Age. My name is Jim Steyer, and I am the CEO and Founder of Common Sense Media.

Common Sense Media is a nonpartisan, not-for-profit organization dedicated to improving the media entertainment and technology lives of kids and families. Our mission focuses on educating and empowering parents, teachers, and young people themselves about how best to navigate this extraordinary 24/7 media environment we all live in. Via our website, Common Sense provides information about Internet safety and media smarts in schools and community settings, as well as trustworthy ratings and reviews of various media—including movies, TV shows, and video games—to assist parents and educators in gauging whether content is age appropriate. We also provide a strong and independent public forum so that families can have a choice and a voice about the media they consume.

I have been involved in children's media and education for more than 20 years as a parent, teacher, child advocate, and media entrepreneur. I founded Children Now in 1988 and served as its president for 8 years, during which time we helped craft the original Children's Television Act regulations. I then founded and served as CEO of JP Kids, an educational media company that developed kid-friendly content for TV, online, and other platforms. I am, by training, a civil rights and civil liberties lawyer, and I have taught popular courses in these topics as a professor at Stanford for the past 23 years. Finally, and most importantly, I am a dad of four kids of my own.

We founded Common Sense six years ago because we recognized that parents and educators were not getting the help they needed in this rapidly evolving world of media, entertainment, and technology. Common Sense's rapid growth during these past 6 years provides clear testament that there is an enormous need for high-quality, trustworthy information, as well as a strong nonpartisan voice for kids and families across the country.

As we all know, media and entertainment profoundly impact the social, emotional, and physical development of our Nation's children. And we are at an historic and truly transformative moment in the development and impact of media and technology on our society. Parents and educators need help understanding and managing what their children see, hear, and surf. But who should provide this help? In truth, several key institutions should—nonprofit organizations, schools, the media

industry, and government. Each of us has an important role to play. Parents must parent, but we cannot simply tell parents that they must do more. We must help them by providing the tools, information, and knowledge they need to make smart choices for their families. The same is true for teachers in our 21st-century classroom.

Congress has a very significant role to play in the field of kids and media, as evidenced by this hearing today. Another example of Congress' role is this Committee's leadership in the passage last year of the Child Safe Viewing Act. We are very grateful to Sen. Pryor for his leadership in introducing that legislation and to the wisdom and commitment of this entire Committee in moving it forward. We eagerly anticipate the FCC's report on the topic next month and look forward to working with the Committee and the FCC on steps to empower America's families with the tools they need to protect and educate every child in this country. The good news, as is reflected in the actions and leadership of this Committee, is that these are truly bipartisan concerns, with leaders from both sides of the aisle joining together to serve the best interests of America's kids.

Industry clearly has a very significant role to play as well. Producers need to create more high-quality, educational programming. Networks and cable stations need to consistently air far more of that kind of programming and also be more considerate of who makes up the audience of their programming. To take just one example, the TV networks need to be far more mindful of the commercials and promos that are aired during programs that millions of children watch. And advertisers need to severely restrict advertising of junk food to children, who do not necessarily have the cognitive ability to differentiate between entertainment and advertising.

Education and children's organizations also have a critical role to play. For example, Common Sense helps millions of families each month by rating and reviewing a wide range of media content. As a truly independent third party, we serve as a trusted source for information, tools, and advice. We provide a trusted conduit between the media industry, parents, and teachers, and offer easy-to-use information on nearly every media title and topic under the sun.

All of us represented here today have an important role to play in serving children, but we cannot play these roles in a vacuum. We must work together. That's not to say that there should not be competition between leading media industry players—that's what drives innovation and creativity. But collaborating and coordinating activities that will benefit young people and their families can enable even small contributions to produce enormous benefits for our Nation's kids, both at home and at school.

As others have discussed today, the TV and media landscape has changed in ways that none of us could have imagined 20 years ago. We are at a critical moment of opportunity, and it is incumbent upon each of us to seize that moment and act with wisdom and foresight to serve future generations. Television and other media are now vastly more accessible on a myriad of platforms. You can watch full episodes of your favorite shows by simply pointing your smartphone's browser to *Hulu.com* or *TV.com*. On YouTube—a company that didn't exist a mere 5 years ago—young people are watching hundreds of millions of videos a day. Perhaps most radically different however, is the fact that the very nature of creating and producing media content has drastically altered. No longer is media the purview of a handful of large broadcast or cable networks. On YouTube alone, users are creating and uploading hundreds of thousands of videos daily—in fact, during every minute of this hearing, at least 10 hours of video will be uploaded to YouTube. And with the recent DTV transition and the billions of dollars we will spend to expand broadband across the nation, this landscape will change even more dramatically in the years ahead.

The Digital Media Age creates myriad opportunities and challenges for today's families and educators. It opens the world up to our children to learn and explore, yet it also makes them vulnerable to harm. So how do we ensure that America's kids have the knowledge, ethics, and skills they need to harness the educational and economic power of the digital world responsibly and to avoid its potential dangers? This critical question requires urgent attention from policymakers, parents, educators, and the media industry. And, as we proposed to the FCC during their recent Notice of Inquiry, it should be the centerpiece of our national broadband plan. Working together, we must create the teaching and parenting tools that will enable us to educate, empower, and protect our children and bring teachers and parents up to speed as well. As we all know, our kids are the true natives in this rapidly evolving digital media environment, but parents and educators also need to do their homework.

This new Digital Media Age also presents this Committee and this Congress with a unique and extraordinary opportunity to reshape the media and education landscapes in positive ways. And we at Common Sense urge you to think big . . . very

big. We encourage you to use your power to examine both the positives and negatives of TV and other media platforms. And we would suggest that you frame your discussions and legislative efforts around three basic concepts that media should provide to America's children in this digital age. We must:

- Educate,
- Empower, and
- Protect.

*Educate:* It's time to make dramatic new improvements to the original goals and accomplishments of the Children's TV Act. We should, of course, encourage more educational TV and media. Yet in 2009 and beyond, we must also educate kids—and their parents and teachers—*about* this digital media age, as well as the enormous amounts of video and other content that kids can now access, create, and share on so many different platforms at any hour of the day or night.

*Empower:* Parents must be able to make informed choices about the media that their kids consume. Every family is different—and indeed, every child is different—so all families will not make the same choices. Yet all families need easy-to-use tools and independent information to make safe, smart, and responsible choices about the media that their children consume and create.

*Protect:* The Children's Television Act focused on educational children's programming and required 3 hours per week from broadcasters. But as every parent knows, there's a great deal of TV and other media that *isn't* designed for children but still reaches millions of them. Whether the concern is sex, too much violence, interactive advertising, junk food marketing, or other inappropriate advertising and promotions during sporting events, we must define a healthy balance between safe and smart digital media practices for kids and families and other important societal rights. As someone who has taught courses on First Amendment law and civil rights to thousands of Stanford students over the past 20 years, I know that this Nation can strike a proper constitutional balance between protecting our children and respecting important First Amendment freedoms.

### **Educating America's Children**

This hearing comes at a very opportune moment. Quite simply, it is time to build on the goals and accomplishments of the Children's TV Act. We should, of course, encourage more educational TV and media, but we must also educate kids—and their parents and teachers—about the realities of this digital media age and the enormous amounts of video and other content that kids can now access.

Since the Children's Television Act first became law, there have been remarkable advances in both the level of technology and the quantity of programming. Some would argue that the quality of TV programming has risen by leaps and bounds, while others would say that it has fallen off a cliff. Both may be true, depending on your perspective, but they ignore the larger reality.

It's worth noting that, in its early years, television was hailed for its potential to deliver educational content. The 1950s are often referred to as "the golden age" for children's television because of the quantity and high quality of educational programming. Just a few years later, however, then-FCC Chairman Newton Minow famously called most TV programming a "vast wasteland."

Today we stand at a similar pivotal moment in terms of digital media's impact on the lives and education of our Nation's children. The Internet is no longer in its infancy, and digital media is growing rapidly and becoming increasingly important in so many facets of children's lives. Tens of millions of young children go online every week, and they can use the Internet to access vast quantities of educational and informational material . . . or to find content that makes television's vast wasteland look like the Promised Land.

In sum, my own four kids—and all of America's children—are growing up at the epicenter of a technological revolution. Digital media defines their lives in unprecedented ways; they spend far more time online, texting, watching TV and movies, and playing video games than they do in school or with their parents. The convergence of portable personal technologies, unfiltered access to information, and user-generated content profoundly impacts how they grow and learn.

The key to success in this Digital Media Age will be preparing our children—as well as their parents and their teachers—to make smart and safe choices about what they find, watch, hear, share, and create with digital media.

As noted before, television and media are vastly more accessible today, and truly mobile. While advanced filtering technologies can be of great assistance to parents at home during the early childhood years, these technologies become less effective as children reach their "tween" and teen years and have access to content outside the home or are able to download content on their own mobile devices. These youths

often become more technically savvy than their parents and are able to circumvent blocking technologies (often without their parents' knowledge.) Children need digital literacy education to understand the power of the digital messaging that they absorb on a daily basis. Common Sense believes that the best filter is the one we build in a child's brain, and building that filter begins with digital literacy education long before the child becomes a tween—literally from the preschool years onward.

Common Sense's core mission focuses on consumer empowerment and the education of parents, educators, and kids about the impact of media on their cognitive, social, emotional, and physical well being. Media touches every part of our kids' lives. It impacts the way they socialize, communicate, gather and process information, and participate in political and economic life, and it is the means by which they form opinions and values. Families and educators need to help children become good digital citizens and to highlight how media content can impact opinions, values, and behaviors. Through schools and community groups, children should be instructed on how to be media savvy and safe, how to search for age-appropriate content, as well as how to be responsible and ethical in their own conduct in the digital media world.

Over the past year, Common Sense has developed a national media education program for schools—Common Sense Schools—that is designed to educate parents and teachers about their kids' media lives and how to be involved in what they're hearing, seeing, and surfing. In the past few months alone, more than 3,700 schools in every state and the District of Columbia have signed up as members. This rapid growth exceeded even our most optimistic expectations and stands as a clear indicator of how concerned parents and schools are about their kids' media lives. The Common Sense Schools program is age-and-stage specific about the issues typically faced by kids in their interactions with media—*i.e.*, discussions re: texting that surface in grades 5–6, cyberbullying issues in grades 6–8, and social networking issues in grades 8–12.

The success of this program has made it far more apparent that digital literacy and citizenship should not only be directed to parents and teachers, but also targeted specifically to our Nation's youth in every school and community group across the country. Common Sense calls upon legislators to fund digital literacy programs through the Department of Education, the National Telecommunications and Information Administration, and other government agencies and to support legislation that would encourage digital literacy, such as the SAFE Internet Act, S. 1047, introduced by Senator Menendez this past May, and its companion in the House, the AWARE Act, H.R. 3222, introduced last week by Rep. Wasserman Schultz and Rep. Culberson.

In order to survive and thrive in today's global economy, today's students must be digitally literate, which means being able to use and understand digital technologies and messages. These new forms of media literacy must become integral parts of their education, both for traditional studies (reading, writing, math, science) as well as for the 21st-century skills they will need to succeed (creativity, innovation, communication, critical thinking, civic participation). There are several basic steps that this Congress and this Nation need to take in order to develop Digital Literacy and Citizenship programs for every child in America:

- Create basic resources for educating teachers, parents, and kids;
- Fund professional development for educators in schools;
- Fund and deliver additional education/technology resources in under-served schools and communities; and
- Make media education and Digital Literacy an essential part of every school's basic curriculum.<sup>1</sup>

How does America benefit if we make this investment? It is perfectly clear: The nation whose children best harness the educational and creative powers of digital media will write the economic and educational success story of the 21st century. Digital media is bringing significant changes to the ways that kids live and learn—and those changes can create opportunities or pose potential dangers. We need to fund teachers, curricula, and parenting tools that teach kids—and adults—to understand and manage media's role in their lives. The emerging fields of Digital Literacy and Citizenship are the keys to that preparation. And they deserve this Committee's and America's investment and leadership today.

<sup>1</sup>Digital Literacy and Citizenship in the 21st Century—Educating, Empowering and Protecting America's Kids: A Common Sense Media White Paper." June 2009. Available online at <http://www.common sense media.org/digitalliteracy>.



### Empowering America's Families

As a long-time advocate for giving parents and educators a choice and a voice about the media that our kids consume, Common Sense supports all efforts that empower parents to decide what media content is appropriate for their families. There have been many important advances in this area since the passage of the Children's Television Act, but as all parents and educators know, many challenges remain, and new ones arise with rapidly changing technology.

As noted above, our Nation's children live in a 24/7 digital world in which they use multiple media devices—often simultaneously—in a given day, and in which the average 8- to 18-year-old child spends at least 44.5 hours per week consuming media. Parents understandably want easy-to-use tools that can assist them in finding suitable content for their children. However, many parents are often unaware of available media tools or are uncertain how to program or operate tools like filters or parental control devices.

To further complicate matters, many parents are confused by the way in which TV and other media are now accessed through a variety of platforms—with each using different filtering and blocking technologies, as well as a myriad of different rating systems. Most families increasingly access TV and media not only through broadcast television and cable, but also through an interconnected digital world of Internet-enabled stationary and mobile devices, Internet-enabled video games, and various satellite services. The vast array of different technologies requires that parents learn how to program or block for each new platform and Internet-enabled device—a time-consuming and often frustrating exercise. Little wonder, then, that parents are confused or overwhelmed, and many simply stop trying to navigate this digital world with their kids.

As these technologies and services converge, it is vital that the public and private sectors work together to develop tools for parents that are easy to understand, easy to use, and designed to operate across different media and technology platforms. Such work should clearly include upgrading key tools and technologies so that parents can use them to access additional independent information, ratings, and reviews beyond the industry's own self-regulated—and oft criticized—rating systems.

A consumer should further be able to understand both *who* is rating the material and the factors that determine that rating—*i.e.*, violence, nudity, profanity, and smoking. Parental empowerment tools will be significantly improved—and used by many more parents—if more parents know how and by what standards content is rated. Congress should support the ability of every family to access independent third-party ratings information—such as those of Common Sense and others—through newly developed filters, as well as the existing V-Chip infrastructure.

If these tools can be used to access and apply third-party ratings in addition to the industry's self-regulation and ratings, America's parents will be able to customize the tools to fit the age of their children, their specific concerns about avoiding certain types of content, and their personal interest in finding content that they deem appropriate. Further, independent third-party ratings and reviews, which are analogous to third-party resources like *Consumer Reports*, can also provide explanatory text as to why certain digital messages might be inappropriate for a child's particular age and stage of development.

Parental demand for independent third-party ratings is demonstrated by the growth of Common Sense Media, which should have well over 10 million unique visitors to our website in 2009, and which now offers more than 10,000 ratings and reviews of movies, TV shows, video games, websites, books, music, and other media content. Here are a few examples of recent Common Sense Media reviews and parent tips:

#### Reviews:

I Love You, Beth Cooper

<http://www.commonsensemedia.org/movie-reviews/i-love-you-beth-cooper/details#video-review-section>

Harry Potter and the Half-Blood Prince

<http://www.commonsensemedia.org/movie-reviews/harry-potter-and-half-blood-prince/details#video-review-section>

Last House on the Left

<http://www.commonsensemedia.org/movie-reviews/last-house-left/details#video-review-section>

#### Parent Tips:

TV Violence

<http://www.commonsensemedia.org/tv-violence>

#### Texting and Kids

<http://www.commonensemedia.org/responsible-text-messaging-tips>

#### Social Networking

<http://www.commonensemedia.org/social-network-tips>

Ratings from trusted independent sources can now easily be integrated with V-Chip technology and other filters. These third-party ratings help simplify the converged digital world and can help guide families in selecting appropriate content. Moreover, they can be—and in Common Sense Media’s case are—distributed in partnership with major industry players.

Another important empowerment issue is that many parents do not want to just block certain content but also want to quickly and easily locate content that is age appropriate or educational. Common Sense accordingly supports the enabling or “opening up” of the V-Chip and other tools to read for an E/I classification for Educational/Informational programs—or for other similar ratings provided by independent third parties. These types of ratings would enable parents to search for programs they desire in lieu of merely blocking that which is deemed objectionable. That definition may always be difficult, but it’s another very simple example in which access to high-quality third-party information would empower parents to find the positive educational media that they want for their kids.

On a related note, Common Sense Media recommends expanding the current definition of “video programming” under Section 47 U.S.C. § 602(20) of the Communications Act. The definition of “video programming” should not be limited to programming comparable to that of a “television broadcast station.” Such a definition is disconnected from the media environment facing today’s families, where so much video is watched on sites such as *YouTube.com* and *Hulu.com* via both mobile and stationary devices. Rather, the definition should be written as expansively as possible to reflect current technological and market realities as well as those likely to come. And it should be expanded to include content provided on video hosting websites. This will be an important step toward encouraging the industry to work collaboratively to develop tools that enable parents to easily select, filter, and find content on the myriad devices their children now use.

#### Protecting Our Nation’s Children

Much of this hearing will focus on TV shows and other media that are designed for children. But we should also recognize that a great deal of TV and media that are *not* “designed” for children still reaches literally millions of children on a regular basis. And I think that many of us would agree that much of that media is *not* appropriate for children—and, indeed, that some of it may well be detrimental to their health and proper development.

To underscore this public health reality, last year Common Sense Media asked researchers from the Yale University School of Medicine, the National Institutes of Health, and the California Pacific Medical Center to conduct a comprehensive analysis of existing research tracking the impact of media on children’s health. This stellar research team published an executive summary of their meta-analysis in December 2008.<sup>2</sup> The researchers reviewed more than 170 quantitative studies examining the relationship between media exposure and seven critical health outcomes for children:

- Childhood obesity;
- Tobacco use;
- Sexual behavior;
- Drug use;
- Alcohol use;
- Low academic achievement; and
- Attention deficit hyperactivity disorder (ADHD).

In 80 percent of the studies, researchers found that greater media exposure was associated with negative health outcomes for children and adolescents. This meta-analysis of the very best studies on media and child health published in the last 28 years clearly shows the connection between media exposure and long-term negative health outcomes, especially childhood obesity. That is to say, media in certain forms can truly be a significant public health issue for our kids.

<sup>2</sup>“The Impact of Media on Child and Adolescent Health: Executive Summary of a Systematic Review”, Common Sense Media, December 2008. Available online at [http://www.commonensemedia.org/sites/default/files/CSM\\_media+health\\_final.pdf](http://www.commonensemedia.org/sites/default/files/CSM_media+health_final.pdf).

Whether your primary concern is protecting children from sex, violence, or other inappropriate content . . . or whether it is improving the educational opportunities created by television and the new Digital Media Age, we believe—as outlined above—that the first step is educating and empowering parents. Parents are in the best position to make smart choices about what they do and don't want in their homes—not to mention in their children's laptops, game consoles, and mobile phones. And more education and information will help more parents do what they want to do—make the right choices for their kids. The same is true for America's teachers and the classrooms that they manage and lead across this great land.

But our focus on parents and educators does *not* absolve business and government of their own critical responsibilities. There are vital areas in which government and business can and should do far more to help parents and teachers protect our children from inappropriate content.

For example, a significant amount of advertising is aimed at adults, yet seen by far too many kids. Last fall, Common Sense Media reviewed advertisements and network promotions shown during Sunday afternoon broadcasts of professional football games. These games may not be officially classified as “children's programming,” but they are programs that millions of families—including my own—like to watch and enjoy together. In fact, according to Nielsen reports, more than 5.3 million kids ages 2 to 17—and nearly 2.8 million kids ages 2 to 11—watch the average pro football game on broadcast television or ESPN each week.

During the 2008 NFL season, we reviewed nearly 60 games—more than 180 hours of coverage—and watched nearly 6,000 commercials. Here's what we found:

- 40 percent of the games included advertisements for medications for erectile dysfunction (Viagra and Cialis).
- More than 500 of the advertisements involved significant levels of violence, including gun fights, explosions, and murders.
- 300 of the advertisements were for alcohol.
- 80 of the advertisements involved significant levels of sexuality, including scenes about prostitution and strippers.
- Nearly half (44.7 percent) of the violent or sexual advertisements were promotions by the networks for their own programs.<sup>3</sup>

The appeal of pro football and other sports to families is easy to understand. In addition to being fun and exciting, the games can offer many positive lessons for parents to share with children, including the importance of teamwork and fair play. But parents like me want to watch pro sports on TV with our kids without getting sucker-punched by ads aimed at adults. We know this is a matter of concern because when we released the report earlier this year, we created a website where parents could e-mail NFL Commissioner Roger Goodell to tell him how they felt about these ads—and he immediately received more than 1,000 e-mails.

We're currently looking at Major League Baseball weekend daytime broadcasts as well, and thus far, we're seeing similarly adult-oriented messages and images. The leagues and the networks should clearly do far more to make this a safer, healthier space for families. And if they don't, then this Committee should hold them responsible. Based upon my Stanford legal background and teaching, I can assure you that such efforts can be done in a way that is consistent with our First Amendment principles.

Many parents and educators are also concerned about the prevalence of junk food advertising during children's shows. In 2005, for example, the Institute of Medicine (IOM) released a report that found compelling evidence that TV advertising influences children's food and beverage preferences, purchase requests, and consumption habits. The IOM recommended that the food industry voluntarily shift advertising and marketing targeted to kids to products and beverages that are lower in calories, fat, salt, and added sugars and higher in nutrient content. If the industry was not able to achieve significant reform, the IOM recommended that Congress intervene.

In response to this study, the food and advertising industries created the Children's Food and Beverage Advertising Initiative, a voluntary self-regulatory program that currently includes 15 food and beverage companies. Industry leaders assert that the Initiative has sufficiently addressed concerns about unhealthy food advertising to children. But many educators and public health experts would beg to disagree. The industry's Initiative is clearly insufficient, since there still exists no uniform nutrition standard for defining healthy foods that the food and beverage

<sup>3</sup>“Broadcast Dysfunction: Sex, Violence, Alcohol and the NFL”. Common Sense Media, January 2009. Available online at [http://www.common SenseMedia.org/sites/default/files/CSM\\_football\\_012809\\_FINAL.pdf](http://www.common SenseMedia.org/sites/default/files/CSM_football_012809_FINAL.pdf)

companies adopt. Either the industry must create a serious and responsible standard, or Congress should intervene in a direct and assertive manner.

A second important advertising concern relates to interactive advertising. In 2004, my colleagues at Children Now suggested that it was time, while interactive advertising was still in its infancy, to create industry guidelines and regulations that would protect children from the potentially harmful effects of interactive advertising. In late 2004, the FCC, by a 5–0 vote, tentatively concluded that they were correct.

We are grateful for the leadership that Chairman Rockefeller and others on this Committee have provided in this important area. We are also grateful to the Commissioners who insisted that there should be no commercial Internet links embedded in children’s programs unless technology is available to let parents decide whether they want their children to have access to such links. The Commissioners also unanimously agreed that digital broadcasters should not be able to circumvent existing advertising rules through interactive technology. Unfortunately, nearly 5 years after this ruling, the tentative conclusion has not been made permanent. Interactive advertising on websites is consistently being used to market unhealthy foods to children, taking advantage of children’s unique vulnerability to commercial persuasion. Now is this time to make the earlier public health conclusion permanent. We greatly appreciate your recent efforts in this matter and encourage you to finish the task, as well as the other important children’s media tasks at hand.

In closing, I’d like to thank this Committee for its continued vision and leadership. Moreover, Common Sense would urge the Committee to consider that the television world and its rapid and extraordinary transformation in this new Digital Media Age are still built upon our public airwaves. As our elected representatives, you retain the power to license companies to use these public airwaves. And their use should be linked to the public interest and, most of all, to the best interests of our children and the educational and life needs of future generations. Together, we must all ensure that the public interest is met—not only through more and better educational TV and media—but also through a new national commitment to digital media literacy and citizenship for every family, school, and community across this great land.

Thank you very much for the opportunity to testify at this important hearing. We have also attached some exhibits for the Committee’s review.

The CHAIRMAN. No, thank you a lot.

And when I started all of this, I said that I was so fed up with the FCC, I wanted to remake the whole thing, just scrap it and start all over again. I don’t think we’re going to have to do that now, because I think we have some superb Chairmen and Commissioners.

But, it is so incredibly important. I mean, it used to be that children reacted to us, and now I think we have to be reacting to children. And we’re not. And this is the most serious part of it. And as little children, in little corners of rooms, look at things—television sets or their little handheld sets—they are seeing things that influence them deeply, which flows into them in ways that we can’t understand, which we didn’t have to deal with. I started out with a round television set, watching a New York Giants baseball game, with one set. You couldn’t see anything, but it was television, so I was excited. It’s a lot different now. It has a big effect on them, and I think it does determine the direction of the world.

Mr. STEYER. If I may, Senator Rockefeller?

One thing I would urge this committee to think about, in this new media age, is that kids are not just consumers of media, but they are also creators of media. That’s what text messaging is, that’s what much of the content that we all deal with on a daily basis is. It’s kids as creators of media. It’s why you also must have digital literacy, because they have to understand, if you will, the basic rules of the road, and issues like privacy, identity, and the other things that go hand in hand with the ability to be a creator,

which all children are today, with these new platforms. So, that has to be part of this committee's leadership, as well. And your grandkid, your 4-and-a-half-year-old grandchild, will be creating media sooner than you think. So, they need to be educated as creators, as well as consumers, of media.

The CHAIRMAN. Thank you, sir, thank you very much. Let's start the questioning with Mark Begich.

**STATEMENT OF HON. MARK BEGICH,  
U.S. SENATOR FROM ALASKA**

Senator BEGICH. Thank you very much, Mr. Chairman.

Now that you've raised the bar so high in your introduction of me, I'm nervous about the questions I have to ask.

The CHAIRMAN. I just said you were 47, that was all.

Senator BEGICH. That's all I know.

Well, first, thank you all—Mr. Chairman, thank you for doing this, and thank you all for being here.

I'm a parent of an almost-7-year-old, so I have some real-hand experience—real life experience in regards to TV. I can probably tell you many of the characters. I haven't seen an adult movie in I don't know how many years, now, so—

Let me ask a couple—and you intrigued me—a couple of you mentioned this, but, I know, Mr. Knell, you mentioned it, and that was the 6-to-11 age group. This is a gap. I mean, I—and I don't know the right answer—I know—you know, my son now likes watching George Lopez. I try to explain, that's for older kids, but he prefers to watch it. I try to extract him from it. And I know an adult, at the end of the day, has the total control of what a kid watches. And we practice that very aggressively with one TV in our house, and down in the family room only, and so we're very aggressive about that.

But, how do we get to—without mandatory requirements in regards to ensuring that there's good content for 6- to 11-year-olds? Because I agree with you, that is a huge gap. A lot of good stuff on preschool, no question about it. When you talked about preschool 24 hours, I think that's great, except my son will not watch that. He's not interested, so he jumps to the pre-teen, or the teen stuff, and—at any moment, any of the boy or girl kiss, that's the end of it, he's like, you know, "Change the channel." But, everything else, he intends to—tries to watch.

So, can—maybe a couple, maybe Mr. Knell and I might go to—Zarghami, is that—

Ms. ZARGHAMI. Zarghami, yes.

Senator BEGICH. Zarghami—I might ask you to respond. But, that, to me, is a challenge.

Mr. Knell?

Mr. KNELL. Yes. Well, and thank you for pointing that out, Senator. You know, our kids are digital learners, and I think that they're walking into school now, at age 5 or 6, able to use media better than some of their teachers.

I was interviewed by a reporter, yesterday, Mr. Chairman, who told me that her 2-year-old was downloading iPhone apps off of her phone.

Senator BEGICH. My son's using QuickBooks. He likes printing checks and invoices. We're—

[Laughter.]

Senator BEGICH. We're a small-business family, and so, he thinks—that's very intriguing to him. Except when he gives us a bill.

Go ahead.

[Laughter.]

Mr. KNELL. Right, so possibly we should focus on the fear factor of parents, more than anything else.

Senator BEGICH. Right.

Mr. KNELL. But, in seriousness, I think one way to go about this is looking at a pipeline through schools. And we have been talking to the Department of Education, and I know that Secretary Duncan is a big advocate of trying to merge this need of having these digital learners coming into school today, with—figuring out a way in which we can create content that will bridge from the school to the home, because we're seeing, of course, as someone mentioned earlier, that homework—I think the Chairman mentioned that homework is being given out, and you are connecting the child that way.

When you get to high school—think how much more powerful it is when you have Harry Truman's speech about the atomic bomb, you know, in that high school classroom, rather than reading it in a textbook. Well, we can do that for 6- to 9-year-olds, and we need to make media as a partner in this, and figure out ways when we can incentivize folks.

The fact is, there's not a lot of advertising money that is available for this age group of 6- to 9-year-olds, and even though my friend, Cyma, has done great work in Nickelodeon in trying to address that group, along with some of her colleagues at Cartoon and Disney, who tend to dominate that age group, we have not really seen an abundance of programming that is not tipping more toward the entertainment side. You sort of go from preschool education to all entertainment, all the time. And we have to figure out a way to get the best of Hollywood and the best of Silicon Valley focused on this need to create programming that is going to move the needle on the education side. Let's focus on those kids, let's get a—let's really try to make that happen.

Senator BEGICH. Let me, if I can. Again—and if I pronounce your name wrong—Ms. Zarghami?

Ms. ZARGHAMI. Zarghami, yes.

Senator BEGICH. And two parts to it I—one is that response, but the second is, for kids that are not preschool, the morning is also important. And I know you mentioned you have preschool in the morning, which we took advantage of more than once. But now, in the morning, it's important for, also, that age group.

And so, could you kind of address—and then, I call it the working-family/single-parents which you really highlighted, it's at 3 to 7 p.m., 6 p.m., when a caregiver may be there, or in my case, in my wife's case, our mother-in-law, who tells me she's strict, but I know—I know, based on his comments—

[Laughter.]

Senator BEGICH.—what he has watched that day, let me just say that. And then I—that's my last question for right now.

Ms. ZARGHAMI. Well, I will tell you that Nickelodeon, in the very early days—and I was there in the very early days—did a lot of research with kids to find out what it was that they were interested in getting from television. And we are primarily an entertainment brand for kids. And we feel very strongly that we want to do right by them, as well.

So, the idea that we could—you know, I mentioned it earlier, it's tough to be a kid in a grownup's world, and kids—one of the biggest issues for kids, when we began—and I think one of the biggest issues for kids today—once they get out of the preschool age—is, What is going on for them at school? And how do they navigate the real world as bigger kids?

And they are going to school to get their academic education, but what they don't necessarily have, particularly with the busyness of their lives today, and their parents' lives, is this—tools that they need to navigate, sort of, social skills. And so, Nickelodeon—early on, we said to kids, “What is it that you want from us? And what can we do better?”

And they said, “Just because something is good for you doesn't mean that it tastes good.” Right? Like green vegetables. And we said to them, “So, we will now tell stories that are relevant to kids, that help kids navigate bullies at school, sort of, making new friends, dealing with tough issues with their siblings, and dealing with their parents.” And every story on Nickelodeon tries to come to some sort of positive conclusion, so that, as kids watch kids on Nickelodeon, who either look like them, have the same issues that they have, or have exaggerated versions of those issues that they have, they can take it all in and learn to navigate the world that they're living in in a more confident way.

And building a kid's self-esteem, we believe, and I think everybody here would agree, is really important, particularly in those 6-to-11 age groups.

Senator BEGICH. Thank you very much.

Mr. Chairman, I know my time's up.

The CHAIRMAN. Thank you very much.

Senator Nelson, I'd like to call on you?

No, no. No, no. No, no, no. We're not following the rule book, here. Then, Senator Klobuchar, you'll be next.

**STATEMENT OF HON. BILL NELSON,  
U.S. SENATOR FROM FLORIDA**

Senator NELSON. I'm grateful for your hospitality, Mr. Chairman, thank you. Your generosity. You're very kind.

Let me ask Professor Calvert. In your testimony, you mentioned the possible creation of a public-private center for children's programming that would serve as a think tank for helping create and distribute new types of children's programming. Can you tell us some more about that?

Dr. CALVERT. Yes, Senator. My thinking on that is that, a lot of times, you don't have all the key people at the same table, and that if you were to really be able to get—and Sesame Workshop has been a great example of doing this—the people who create media, along with the people who study media, the policymakers, you know, the advocates for children's media—if you could get them

at—around the same table, and finance them in a way that we could begin to have some creative ideas, that then we could advance the educational arena.

And I would also come back to the point that EI programming, educational-informational programming, does include pro-social content. You know, so by law that was how it was originally defined. But, I think that all those people, in a mix, could then begin to create a partnership to, kind of, look to the best interest of children. And by doing that—you know, one of the things that happens with studying even the quality of the programs and how it affects children, that there's not a good funding mechanism to do that. I mean, sometimes private industry does that, and then they move on—or, you know, foundations are doing that, and they move on to another area.

So, I think that, by working together, we could begin to create a better-quality media environment for children. And I'm especially interested in seeing some of the more interactive options appear—websites, and these handheld devices—and how we can use them to optimize children's development.

Senator NELSON. We limit the amount of advertising, but we don't regulate the content. Is it time to revisit this issue? And what would you all suggest? And—you know, obvious things—childhood obesity, and other issues. What do you think?

Mr. LAWSON. Senator I can tell you that—our channel—we have a 24/7 free over-the-air broadcast channel, called Qubo, and we have voluntarily adopted probably the strongest nutritional guidelines in the industry. We think that there is a market, actually, for programming for children that parents can really feel safe—feel a sense of safety in their children viewing it. So, in this case, I commend the work of Gary and others, and the leadership of Senator Brownback and others in this area. We, as a broadcaster, have heard that message, and we have adopted these guidelines.

I would also, if I may, Mr. Chairman, follow up on Senator Begich's question. Qubo is designed to fill that gap in programming for children right after preschool. It is—we understand that there is a marketplace failure. We are trying, as a private-sector entity, to fill that niche with quality educational and informational programming, and it is available 24/7.

Mr. KNELL. I would also just point out, Senator, that you can look at the United Kingdom, who has faced this issue through their regulatory framework at *Ofcom*. They address the same thing. Now, of course, you have the BBC over there, which is a non-commercial service, that is—got multiples more funding than PBS does in the United States. That makes a big difference. But, in the commercial sector, they did put forth a set of nutritional guidelines for food marketing, which is not “the cause” of obesity, but it is a contributing factor, about limiting the exposure of young children to products that may be less healthy for them than others. And they did come up with a set of uniform nutrition standards. And, the last I checked, the sky did not fall in on the United Kingdom. They have a vibrant program, and there are a lot of kids over there who are engaged in children's television every day, so it's worth looking at.



Senator NELSON. Mr. Steyer, in your answer to this, also work in, not only the content, but the content of the movies with—or, the film—with embedded advertising.

Mr. STEYER. OK. Thanks, Senator. Well, I would agree—I actually think that we can go a lot farther, and, as I mentioned in my introduction, I teach civil rights and civil liberties at Stanford, in addition to running Common Sense. And I would tell you that you're on solid First Amendment grounds if you craft it carefully.

Mr. Genachowski is a two-time Supreme Court law clerk, so he's quite familiar with the law and the balancing, as well.

And I would suggest that there's a lot that you all could do, and that this country could do, not just along the lines of what Gary just said about the uniform nutritional standards that clearly ought to happen in the obesity area, but Chairman Genachowski, in his opening statement, talked about making permanent the ban on interactive advertising from kids' programs. To me, that's a no-brainer. It should be done. The FCC can do that. And I hope that they will do that in the coming months.

We issued a report this past December—I think we shared it with Senator Pryor, among others, and—looking at the ads that air during sporting events, which are extremely offensive to me, when I have to explain erectile dysfunction to my 5-year-old. And I think that there are two things that can happen here. One, I think there's industry leadership, which has, in this area, I think, been extremely slow to materialize, because—for obvious business reasons. So, I think there needs to be leverage from this committee and elsewhere.

But, I think that there are ways in which you can balance the best interests of kids, when it comes to advertising, with the need to make a profit in a market context.

But, the second thing I'd add, which goes to your question about movies, is that the concept of digital media literacy, which I believe should be in every school, in every classroom in the United States today—by the way, we're doing it in Omaha right now. We're doing a pilot program—thanks to the Buffetts—we're doing a pilot program in the Omaha public schools—should include education for kids as young as kindergarten about how to distinguish between advertising and real programming. Because when you have embedded advertising and product placement in movies, kids have to be able to understand that. They actually need the judgment to do that. And very basic media education, media literacy programs in schools can teach them how to think critically about those messages.

So, one of the great parts of a digital media literacy program, that you all oversee with the NTIA, which could be part of the—NTIA's new broadband efforts—is that it, in fact, will give kids the ability to distinguish between ads and traditional programming. And I think, if you put all those together, a lot of the challenges that advertising presents to kids—which are enormous—would be dealt with in a very serious way.

Senator NELSON. Thank you.

The CHAIRMAN. Thank you, Senator Nelson.

Senator Klobuchar?

**STATEMENT OF HON. AMY KLOBUCHAR,  
U.S. SENATOR FROM MINNESOTA**

Senator KLOBUCHAR. Thank you very much, Mr. Chairman. Thank you, to all of our witnesses.

I will say that I always found this a hard issue, because I do think parents are on the front line and have to make a lot of the decisions to balance, and I wish there was some magic technology that would allow them to do that. And that's—will be—my first questions will be about that.

But, we also have to be careful about what is on TV. It makes a big difference in our kids' lives. I think some of you know, the Minnesota-based National Institute on Media and Family, which Dr. David Walsh, at the University of Minnesota, runs, and, you know, his research shows that the average American child today spends 44.5 hours a week in front of computer, TV and game screens. Children from homes that have the least income watch the most media with the least supervision, and 43 percent of children under 2 years of age watch TV every single day.

And I was always interested in the V-Chip, and I know that Senator Pryor authored a bill called the Safe Viewing Act, which became law this past December, which requires the FCC to submit a report to Congress examining the existence and availability of advanced blocking technologies for various communications platforms. And I just wondered if any of you had a comment on how you think that is going, in terms of parents having available technology if they want to block certain shows?

Dr. CALVERT. Professor Jordan, at the University of Pennsylvania, looked at the V-Chip with parents, and most of them were unable to navigate it, which comes back to the Chairman's point, earlier, about something simpler, you know, where you have, like, a button to push or something that would allow parents to very readily see what's on the airwaves, and also to block it.

So, sometimes the technology, if I can put it, is not transparent. The—we need to simplify things that—sometimes children understand how to use the technology more readily than their parents do.

Senator KLOBUCHAR. That is certainly the truth in my household. I had to call my daughter last night, in Minnesota, to figure out how to switch the channels on the TV. So, there you are. She's 14. All right.

Mr. Steyer?

Mr. STEYER. Yes, I actually think that we're—as I said in my remarks, I think we're quite close to that reality. And I think a little leadership from this committee and the FCC will get us there quicker than—more quickly than you think.

And I think, Senator Pryor, that the Child Safe Viewing Act actually presented the ability to do that.

Look, to me, having been around—at that point, I was President of Children Now—when the V-Chip was created, I think the V-Chip technology is meaningful, and I think the TV ratings from the industry are pretty meaningless. And the TV-Y, TV-MA, and that stuff, really doesn't matter to parents. And I think that the key is to marry the technology that exists—not just in the V-Chip, but quite frankly, in the IPGs of the cable networks, who distribute the

vast majority of television programming—and then do really easy-to-use, sophisticated, third-party ratings. They're much better than the current ratings that the TV industry gives out. I don't think those—those mean nothing to me, and this is my field, and I'm a parent of four.

So, I think that the technology is there, and I think we're actually moving there quite closely now. Our ratings and reviews on every—basically every television—and Gary knows this very well—are about to appear on DIRECTV, starting in the fall, on your IPG. We've been—the challenge is actually integrating the ratings reviews into the interactive programming guides of the cable networks. But, that's easily done. And once that's done, any good rating system—it's an expensive proposition to rate every show on television, but it can be done—is—can be made available through the click of your little red button. And so, that information is just about to be available.

What I think we would—could use from this committee, and from the FCC, is clear direction to the industry to distribute that in every home in the country.

But, we're there. And I think that the V-Chip—all you have to know on the V-Chip technology is, keep it open, and not solely restrict it to the silly TV-Y, TV-MA ratings that really mean nothing to the vast majority of parents. But, it's there, and I think a small amount of leadership and your little red button will be a reality sooner than you think. Because that's where you need it, right at point of decision for the parent, when they're deciding, and letting them make a decision about which particular programs, whether it's sex—

Senator KLOBUCHAR. OK—

Mr. STEYER.—violence, commercialism—

Senator KLOBUCHAR. Thank—

Mr. STEYER.—is appropriate for their kid.

Senator KLOBUCHAR. Thank you.

Mr. Lawson—I appreciate it. I want to switch to one other topic. I'm on the Agriculture Committee. We're working on the nutrition bill for our schools, and I've really learned a lot in the last year, some of it already seen in differences between schools, where my daughter had attended, with nutrition and the affect it has on kids. I appreciate the recent decision of your networks to advertise the nutritional guidelines for foods. And thank you for that. And, just where you think that's going.

And also, I think, Ms. Zarghami, you talked about the—not using Dora the Explorer, one of my favorites, and Spongebob, to advertise certain kinds of foods. If you could both comment on that, because this is clearly an issue with kids and parents thinking that foods are OK and getting the blessing of Dora the Explorer and other things. So.

Mr. LAWSON. Well, thank you, Senator, for your acknowledgment of our efforts with Qubo. We have adopted strong nutritional guidelines that have been called the gold standard for the industry. A hearing like this helps us a lot, because it puts a spotlight on a service that is not well known. It's a free, over-the-air service. It's made possible by digital television. It is advertiser-supported, and

the 1990 Children's Television Act acknowledged the role of advertising in supporting educational and informational media.

But, it's a problem for us that Qubo is so underrecognized, not only in the marketplace, but in the public-interest community, the Children Now study that has been quoted—I was invited to their presentation. There was criticism of the broadcasters—not that they weren't airing 3 hours a week, but because somehow there is a quality issue. Qubo wasn't even mentioned. We're a broadcaster. We are a commercial broadcast network, distributing a—quality children's program, network, a channel, serving this in-between audience, after preschool, and we're not acknowledged by the public-interest community. We need some help in the marketplace. We need some help with distribution.

So, I think your asking questions about that, and this hearing itself, is a wonderful beginning for us, in terms of validating that there is a commercial model for broadcasters who are willing to provide quality children's programming beyond the requirement, and for adopting some guidelines.

Senator KLOBUCHAR. Ms. Zarghami, only—I've gone over my time, so if you could be brief. Thank you.

Ms. ZARGHAMI. Absolutely. So, we work with every food partner and all of the food companies who have taken the CBB pledge, and we're working really hard. We have made a commitment not to put our characters on food that has not been deemed "better for you" by the partners that we work with. We have council meetings every couple of months with all of our food advertising partners, because I think everybody in this business is trying to get it right.

And then, the last thing I would like to say really quickly is, you know, we do a lot of research with families and with parents, and the things are really—parents are on the front line on so many issues, and this childhood obesity issue is a very complex issue. But, what parents really want for their kids—they want to raise good kids, they want their kids to be safe, and they want to provide for their kids. And with that in mind, we have to really figure out how to navigate, sort of, what they need to help their kids be better kids.

Senator KLOBUCHAR. Thank you.

The CHAIRMAN. Thank you, Senator Klobuchar.

I am going to have to close this, because we have a vote at 4:10 p.m., which is patently not true, but is about to be true.

And I'd like to close with two things.

Mr. Steyer, I did something last year, because I really am passionate about this question. It's not the subject of the day, but it will be the subject of others—and that is violence and promiscuity. I completely messed up. I said the FCC, in fact, does have authority over indecency, and a little bit of nudity and profanity, but it doesn't have any authority over violence, so I got that wrong, and I apologize to all.

But, we had a—to me, a shocking incident last year, at a hearing on this subject. And I had prepared, perhaps over-dramatically, about a 5-minute presentation of what violence and promiscuity, et cetera, that people could look at, members of the Committee could look at. And I was doing it in absolutely good faith. I was absolutely shot down, mostly by members of my own side of the Com-

mittee, because of the First Amendment. I mean there was an automatic mindset that, "Because the First Amendment exists, you cannot even be talking about this, so don't waste my time."

Now, I was furious. And I was undeterred. But, it makes me so glad that you took off a few days from your vacation to come here, because we're going to need you to help us work this fine line, if, in fact, we're going to do it, which I would like very much to.

And I would close in thanking all of you. I mean, I think these kinds of hearings—are there 50 million people watching? I don't really care. I mean it emboldens all of us, makes us all hungrier for solutions, for answers, makes us prouder of what we want to fight for, and more determined to do so.

My daughter and her husband live in St. Petersburg, Russia, so having grandchildren at home is kind of a big event. And I've watched them very closely over the last several weeks. And it occurs to me how little I know about them, and, in fact, how little I know about children, and how little I know about teenagers, and what goes on inside their minds that may not have to do with television and selections of that sort. But, what are the pressures of the modern world that make today's child different from—if they are—from children before? And if you have any advice to me, as to books that have been written, I will make sure that the Committee gets them. If there are analyses or particular articles—I don't think we—and my generation does not—we do not understand children. We love children, we worship them. We cuddle them, we bathe them, we do anything. But, we do not understand what's going on inside those little minds, and what gets them to select this over that, do this over that.

I think that's a pretty important background. Not just that parents are frustrated because they can't, you know, control viewing habits, but we have an obligation to start on this with an understanding of who children are these days.

And I don't know if those books have been written. I'm sure they have. I don't know what they are. So, can you help me a little bit on that?

Dr. CALVERT. Let me—

The CHAIRMAN. Not now.

Dr. CALVERT. Oh.

The CHAIRMAN. You don't have to do it now.

[Laughter.]

The CHAIRMAN. But, is there—

Dr. CALVERT. Yes, Senator.

The CHAIRMAN.—light at the end of the tunnel on this?

Dr. CALVERT. There's always light at the end of the tunnel.

The CHAIRMAN. OK. All right. Well, we have lots of tunnels in West Virginia, so I'm very happy about that.

[Laughter.]

The CHAIRMAN. I cannot thank you enough, all of you. I think this is so important. Mark Begich stopped as he went by, and left, and said, "You know, I think we're really onto something incredibly important here." And that's what I need to hear from our committee members. And it has got to be something that, you know—there are all different kinds, and people, but I want to plow ahead

on it. And I'm determined to do it. And I just greatly thank all of you.

So, our hearing is adjourned.

[Whereupon, at 4:16 p.m., the hearing was adjourned.]

