

109TH CONGRESS
1ST SESSION

S. 616

To inform the American public and to protect children from increasing depictions of indecent and gratuitous and excessive violent material on television, and for other purposes.

IN THE SENATE OF THE UNITED STATES

MARCH 14, 2005

Mr. ROCKEFELLER (for himself and Mrs. HUTCHISON) introduced the following bill; which was read twice and referred to the Committee on Commerce, Science, and Transportation

A BILL

To inform the American public and to protect children from increasing depictions of indecent and gratuitous and excessive violent material on television, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Indecent and Gratu-
5 itous and Excessively Violent Programming Control Act
6 of 2005”.

7 **SEC. 2. FINDINGS.**

8 Congress makes the following findings:

1 (1) Increasingly, parents, educators, and fami-
2 lies are concerned about the material that is broad-
3 cast on television and radio, and the effect such ma-
4 terial has on America's children.

5 (2) Television influences children's perception
6 of the values and behavior that are common and ac-
7 ceptable in society.

8 (3) Broadcast television, cable television, and
9 video programming are—

10 (A) uniquely pervasive presences in the
11 lives of all American children; and

12 (B) readily accessible to all American chil-
13 dren.

14 (4) 85.1 percent of all American homes sub-
15 scribe to multi-channel video programming.

16 (5) Complaints about indecent programming
17 have grown exponentially in the last five years.

18 (6) In 2004, Americans filed over 1,000,000
19 complaints with the Federal Communications Com-
20 mission about indecent programming.

21 (7) According to reports from the Parents Tele-
22 vision Council, indecent and violent video program-
23 ming on cable television is pervasive.

24 (8) Studies also show that parents are increas-
25 ingly concerned. According to the Kaiser Family

1 Foundation, more than 4 out of 5 parents are con-
2 cerned that their children are being exposed to too
3 much sex on television.

4 (9) Violent video programming influences chil-
5 dren, as does, indecent programming.

6 (10) The American Association of Pediatrics,
7 the American Psychological Association, the Amer-
8 ican Medical Association, and the U.S. Surgeon
9 General have all documented the harm from watch-
10 ing excessive television violence on children.

11 (11) There is empirical evidence that children
12 exposed to violent video programming at a young
13 age have a higher tendency to engage in violent and
14 aggressive behavior later in life than those children
15 not so exposed.

16 (12) There is empirical evidence that children
17 exposed to violent video programming have a greater
18 tendency to assume that acts of violence are accept-
19 able behavior and therefore to imitate such behavior.

20 (13) There is empirical evidence that children
21 exposed to violent video programming have an in-
22 creased fear of becoming a victim of violence, result-
23 ing in increased self-protective behaviors and in-
24 creased mistrust of others.

1 (14) There is a compelling governmental inter-
2 est in limiting the negative influences of violent
3 video programming on children.

4 (15) A significant amount of violent video pro-
5 gramming that is readily accessible to minors re-
6 mains unrated specifically for violence and therefore
7 cannot be blocked solely on the basis of its violent
8 content.

9 (16) Age-based ratings that do not include con-
10 tent rating for violence do not allow parents to block
11 programming based solely on violent content thereby
12 rendering ineffective any technology-based blocking
13 mechanism designed to limit violent video program-
14 ming.

15 (17) Technology-based solutions, such as the V-
16 chip, may be helpful in protecting some children, but
17 cannot achieve the compelling governmental interest
18 in protecting all children from violent video pro-
19 gramming when parents are only able to block pro-
20 gramming that has, in fact, been rated for violence.

21 (18) Restricting the hours when violent video
22 programming can be shown to protect the interests
23 of children whose parents are unavailable, unable to
24 supervise their children's viewing behavior, do not
25 have the benefit of technology-based solutions, are

1 unable to afford the costs of technology-based solu-
2 tions, or are unable to determine the content of
3 those shows that are only subject to age-based rat-
4 ings.

5 (19) After further study, pursuant to a rule-
6 making, the Federal Communications Commission
7 may conclude that content-based ratings and block-
8 ing technology do not effectively protect children
9 from the harm of violent video programming.

10 (20) If the Federal Communications Commis-
11 sion reaches the conclusion described in paragraph
12 (19), the channeling of violent video programming
13 will be the least restrictive means of limiting the ex-
14 posure of children to the harmful influences of vio-
15 lent video programming.

16 **SEC. 3. DEFINITIONS.**

17 As used in this Act:

18 (1) COMMISSION.—The term “Commission”
19 means the Federal Communications Commission.

20 (2) MULTICHANNEL VIDEO PROGRAMMING DIS-
21 TRIBUTOR.—The term “multichannel video program-
22 ming distributor” has the same meaning given such
23 term in section 602 of the Communications Act of
24 1934 (47 U.S.C. 522).

1 (3) OTHER PROGRAMMING SERVICE.—The term
2 “other programming service” has the same meaning
3 given such term in section 602 of the Communica-
4 tions Act of 1934 (47 U.S.C. 522).

5 **SEC. 4. EFFECTIVENESS OF MEASURES PROTECTING CHIL-**
6 **DREN FROM INDECENT AND VIOLENT VIDEO**
7 **PROGRAMMING.**

8 (a) ASSESSMENT.—The Commission shall assess—

9 (1) the technological and practical effectiveness
10 of statutory and regulatory measures that require
11 television broadcast station licensees and multi-
12 channel video programming distributors to rate and
13 encode programming that could be blocked by par-
14 ents, including use of the technology required by the
15 Commission’s Report and Order, ET Docket 97–
16 206, under section 303(x) of the Communications
17 Act of 1934 (47 U.S.C. 303(x)), in accomplishing
18 their intended purposes;

19 (2)(A) the prevalence of violent programming
20 on television; and

21 (B) the effectiveness of the current system for
22 rating and encoding violent television programming,
23 including—

24 (i) an assessment of consumer awareness
25 of the current ratings system; and

1 (ii) an assessment of whether current rat-
2 ings are self-administered or performed by inde-
3 pendent organizations; and

4 (3) the technological and practical effectiveness
5 of measures used by multichannel video program-
6 ming distributors to protect children from exposure
7 to—

8 (A) indecent video programming; and

9 (B) gratuitous and excessively violent video
10 programming.

11 (b) REPORTS.—Not later than 60 days after the date
12 of enactment of this Act and annually thereafter, the Com-
13 mission shall report its findings from the assessments
14 made under subsection (a) to the Committee on Com-
15 merce, Science, and Transportation of the United States
16 Senate and the Committee on Energy and Commerce of
17 the United States House of Representatives.

18 (c) RULEMAKING PROCEEDING.—

19 (1) IN GENERAL.—If the Commission deter-
20 mines, on the basis of an assessment under sub-
21 section (a), that a measure described in subsection
22 (a) is not effective in protecting children from expo-
23 sure to gratuitous and excessively violent video pro-
24 gramming on television broadcasts, or from exposure
25 to indecent video programming or gratuitous and ex-

1 cessively violent video programming carried by mul-
2 tichannel video programming distributors, then the
3 Commission shall initiate and conclude (not later
4 than 270 days after the date of that determination)
5 a rulemaking proceeding—

6 (A) to prohibit television broadcast station
7 licensees from broadcasting gratuitous and ex-
8 cessively violent programming during the hours
9 when children are reasonably likely to comprise
10 a substantial portion of the audience if the
11 Commission's determination relates to measures
12 applicable to such broadcast television program-
13 ming; or

14 (B) to adopt measures to protect children
15 from indecent video programming, or gratuitous
16 and excessively violent video programming, as
17 the case may be, carried by multichannel video
18 programming distributors during the hours
19 when children are reasonably likely to comprise
20 a substantial portion of the audience if the
21 Commission's determination relates to measures
22 applicable to such multichannel video program-
23 ming.

1 (2) EXEMPTIONS.—The Commission may ex-
2 empt from any prohibition or measure promulgated
3 under paragraph (1)—

4 (A) video programming the broadcast or
5 carriage of which does not conflict with the ob-
6 jective of protecting children from access to—

7 (i) indecent programming; or

8 (ii) gratuitous and excessively violent
9 video programming; and

10 (B) premium and pay-per-view services.

11 (d) ENFORCEMENT.—The forfeiture penalties estab-
12 lished by section 503(b) of the Communications Act of
13 1934 (47 U.S.C. 503(b)) shall apply to a violation of any
14 regulation promulgated under subsection (c) in the same
15 manner as if it were a violation of a provision of that Act
16 subject to a forfeiture penalty under section 503 of that
17 Act.

18 (e) DEFINITIONS.—In this section:

19 (1) GRATUITOUS AND EXCESSIVELY VIOLENT
20 VIDEO PROGRAMMING.—The Commission shall de-
21 fine the term “gratuitous and excessively violent
22 video programming” for purposes of this section. In
23 defining it, the Commission—

24 (A) may include matter that is excessive or
25 gratuitous violence within the meaning of the

1 1992 Broadcast Standards for the Depiction of
2 Violence in Television Programs, December,
3 1992; and

4 (B) shall take into account the findings set
5 forth in section 551(a) of the Telecommuni-
6 cations Act of 1996 (47 U.S.C. 303 note).

7 (2) HOURS WHEN CHILDREN ARE REASONABLY
8 LIKELY TO COMPRISE A SUBSTANTIAL PORTION OF
9 THE AUDIENCE.—The Commission shall define the
10 term “hours when children are reasonably likely to
11 comprise a substantial portion of the audience” for
12 purposes of this section.

13 (3) INDECENT VIDEO PROGRAMMING.—The
14 Commission shall define the term “indecent video
15 programming” for purposes of this section.

16 (4) TELEVISION BROADCAST STATION LI-
17 CENSEE.—The term “television broadcast station li-
18 censee” means the licensee or permittee of a tele-
19 vision broadcast station licensed or permitted by the
20 Federal Communications Commission under title III
21 of the Communications Act of 1934 (47 U.S.C. 301
22 et seq.).

1 **SEC. 5. IMPROVED ENFORCEMENT OF INDECENCY ON**
2 **BROADCAST PROGRAMMING.**

3 (a) IN GENERAL.—Section 503(b)(2) of the Commu-
4 nications Act of 1934 (47 U.S.C. 503(b)(2)) is amended—

5 (1) by redesignating subparagraphs (C) and
6 (D) as subparagraphs (D) and (E), respectively;

7 (2) by inserting after subparagraph (B) the fol-
8 lowing new subparagraph:

9 “(C) Notwithstanding subparagraph (A), if the viola-
10 tor is—

11 “(i)(I) a broadcast station licensee or permittee;

12 or

13 “(II) an applicant for any broadcast license,
14 permit, certificate, or other instrument or authoriza-
15 tion issued by the Commission; and

16 “(ii) determined by the Commission under
17 paragraph (1) to have broadcast obscene, indecent,
18 or profane language or images,

19 the amount of any forfeiture penalty determined under
20 this subsection shall not exceed \$500,000, with each utter-
21 ance constituting a separate violation, except that the
22 amount assessed a licensee or permittee for any number
23 of violations in a given 24-hour time period shall not ex-
24 ceed a total of \$3,000,000. In determining the amount of
25 any forfeiture penalty under this subparagraph, the Com-
26 mission, in addition to the elements identified in subpara-

1 graph (E), shall take into account the violator’s ability to
2 pay, including such factors as the revenue and profits of
3 the broadcast stations that aired the obscene, indecent, or
4 profane language and the size of the markets in which
5 these stations are located.”; and

6 (3) in subparagraph (D), as redesignated by
7 paragraph (1), by striking “subparagraph (A) or
8 (B)” and inserting “subparagraph (A), (B), or (C)”.

9 (b) ADDITIONAL FACTORS IN INDECENCY PEN-
10 ALTIES; EXCEPTION.—Section 503(b)(2) of the Commu-
11 nications Act of 1934 (47 U.S.C. 503(b)(2)), as amended
12 by subsection (a) of this section, is amended by adding
13 at the end the following:

14 “(F) In the case of a violation in which the violator
15 is determined by the Commission under paragraph (1) to
16 have uttered obscene, indecent, or profane material, the
17 Commission shall take into account, in addition to the
18 matters described in subparagraph (E), the following fac-
19 tors with respect to the degree of culpability of the viola-
20 tor:

21 “(i) Whether the material uttered by the viola-
22 tor was live or recorded, scripted or unscripted.

23 “(ii) Whether the violator had a reasonable op-
24 portunity to review recorded or scripted program-
25 ming or had a reasonable basis to believe live or

1 unscripted programming would contain obscene, in-
2 decent, or profane material.

3 “(iii) If the violator originated live or
4 unscripted programming, whether a time delay
5 blocking mechanism was implemented for the pro-
6 gramming.

7 “(iv) The size of the viewing or listening audi-
8 ence of the programming.

9 “(v) The size of the market.

10 “(vi) Whether the violation occurred during a
11 children’s television program (as such term is used
12 in the Children’s Television Programming Policy ref-
13 erenced in section 73.4050(c) of the Commission’s
14 regulations (47 C.F.R. 73.4050(c)) or during a tele-
15 vision program rated TVY, TVY7, TVY7FV, or
16 TVG under the TV Parental Guidelines as such rat-
17 ings were approved by the Commission in implemen-
18 tation of section 551 of the Telecommunications Act
19 of 1996, Video Programming Ratings, Report and
20 Order, CS Docket No. 97–55, 13 F.C.C. Red. 8232
21 (1998)), and, with respect to a radio broadcast sta-
22 tion licensee, permittee, or applicant, whether the
23 target audience was primarily comprised of, or
24 should reasonably have been expected to be primarily
25 comprised of, children.

1 “(G) The Commission may double the amount of any
2 forfeiture penalty if the Commission determines additional
3 factors are present which are aggravating in nature, in-
4 cluding—

5 “(i) whether the material uttered by the violator
6 was recorded or scripted;

7 “(ii) whether the violator had a reasonable op-
8 portunity to review recorded or scripted program-
9 ming or had a reasonable basis to believe live or
10 unscripted programming would contain obscene, in-
11 decent, or profane material;

12 “(iii) whether the violator failed to block live or
13 unscripted programming;

14 “(iv) whether the size of the viewing or listen-
15 ing audience of the programming was substantially
16 larger than usual, such as a national or international
17 championship sporting event or awards program;
18 and

19 “(v) whether the violation occurred during a
20 children’s television program (as defined in subpara-
21 graph (F)(vi)).

22 “(H) For purposes of this section, the Commission
23 shall have the authority to impose a forfeiture penalty on
24 any broadcast station (as defined in section 153), network

1 station, nationally distributed superstation, or television
2 network (as those terms are defined in section 339).”.

3 (c) PUBLIC HEARINGS FOR VIOLATIONS OF INDE-
4 CENCY PROHIBITIONS.—Section 503 of the Communica-
5 tions Act of 1934 (47 U.S.C. 503) is amended by adding
6 at the end the following new subsection:

7 “(c) PUBLIC HEARINGS FOR VIOLATIONS OF INDE-
8 CENCY PROHIBITIONS.—

9 “(1) IN GENERAL.—In any proceeding initiated
10 under this section in which the Commission issues a
11 notice of apparent liability, but prior to its imposi-
12 tion of a forfeiture penalty, the Commission or des-
13 ignees of the Commission shall conduct public hear-
14 ings or forums at the discretion of the Commission
15 or its designees, at any time and place the Commis-
16 sion or its designees is able to secure facilities and
17 witnesses, for the purpose of carrying out the duties
18 of the Commission and to ascertain the concerns and
19 interests of the affected viewing communities ex-
20 posed to the broadcast.

21 “(2) COMBINED HEARINGS.—If a broadcast re-
22 sults in the initiation of multiple proceedings and
23 the issuance of multiple notices of apparent liability,
24 but prior to the imposition of multiple forfeiture

1 penalties, the Commission or its designee may com-
 2 bine the hearings required under paragraph (1).”.

3 **SEC. 6. LOCAL BROADCASTING AUTHORITY TO PREEMPT**
 4 **PROGRAMMING.**

5 Part I of title III of the Communications Act of 1934
 6 (47 U.S.C. 301 et seq.) is amended by adding at the end
 7 the following:

8 **“SEC. 340. LOCAL BROADCASTING AUTHORITY TO PRE-**
 9 **EMPT PROGRAMMING DEEMED OBSCENE OR**
 10 **INDECENT.**

11 “(a) LOCAL BROADCASTER ABILITY TO REVIEW
 12 PROGRAMMING IN ADVANCE.—A broadcast station li-
 13 censee or permittee that receives programming from a net-
 14 work organization, but that is not owned or controlled, or
 15 under common ownership or control with, such network
 16 organization, shall be given reasonable opportunity to re-
 17 view all recorded or scripted programming in advance.

18 “(b) AUTHORITY TO PREEMPT.—A broadcast station
 19 licensee or permittee described in subsection (a)—

20 “(1) may decide not to broadcast, or otherwise
 21 preempt, in whole or in part and without penalty,
 22 any programming that it reasonably believes depicts
 23 or describes—

24 “(A) obscene, indecent, profane, or gratu-
 25 itous and excessively violent material; or

1 “(B) activities that would be patently of-
2 fensive as measured by the community stand-
3 ards of the community in which they operate;
4 and

5 “(2) shall notify, in advance, the network orga-
6 nization of any decision not to broadcast, or other-
7 wise preempt, any programming under paragraph
8 (1).

9 “(c) EXEMPTION FROM PENALTY.—A broadcast sta-
10 tion licensee or permittee described in subsection (a) shall
11 not be subject to a forfeiture penalty under section
12 503(b)(2) for the broadcast of a program found to be in
13 violation of section 503(b)(1), if the broadcast station li-
14 censee or permittee prior to such broadcast was—

15 “(1) required by a network organization to
16 broadcast the program which was recorded or
17 scripted, regardless of such broadcast station li-
18 censee or permittee’s decision not to broadcast, or
19 otherwise preempt, the program under subsection
20 (b);

21 “(2) not provided a reasonable opportunity to
22 review the program; or

23 “(3) required to broadcast the program which
24 was unscripted, live, or otherwise presented without
25 a time delay blocking mechanism.

1 “(d) LIMITATION.—Nothing in this section shall pre-
 2 clude the imposition of a forfeiture penalty under section
 3 503(b)(2) against a network organization or its owned and
 4 operated affiliate.

5 “(e) DEFINITION.—The Commission shall by rule de-
 6 fine the term ‘network organization’ for purposes of this
 7 section.”.

8 **SEC. 7. WARNINGS BASED ON CONTENT OF PROGRAMMING.**

9 Part I of title III of the Communications Act of 1934
 10 (47 U.S.C. 301 et seq.), as amended by section 6, is
 11 amended by adding at the end the following:

12 **“SEC. 341. WARNINGS BASED ON CONTENT OF PROGRAM-**
 13 **MING.**

14 “(a) IN GENERAL.—Each television and radio broad-
 15 cast licensee, multichannel video programming distributor,
 16 or other programming service shall provide a warning of
 17 the specific content of each recorded or scripted program
 18 it broadcasts.

19 “(b) WARNING STANDARDS.—A warning provided
 20 under subsection (a) shall—

21 “(1) include information regarding the language
 22 content, sexual content, and violence content of the
 23 program to be broadcast or distributed; and

24 “(2) be broadcast or distributed so as—

1 “(A) to appear in both visible and audible
2 form;

3 “(B) to appear full screen for 30 seconds
4 at the beginning of the program, and every 30
5 minutes thereafter in the case of a program in
6 excess of 30 minutes in length; and

7 “(C) to advise viewers of their ability to
8 block any such program, including programs
9 containing gratuitous and excessively violent
10 material, using V-chip technology to block dis-
11 play of programs with a common rating re-
12 quired under subsection (x) of section 303.

13 “(c) REVIEW.—The Commission shall, from time to
14 time, review the warnings on the content of broadcast pro-
15 gramming required under this section for the purpose of
16 assuring that such warnings meet the requirements of this
17 section.

18 “(d) DEFINITIONS.—As used in this section, the
19 terms ‘multichannel video programming distributor’ and
20 ‘other programming service’ have the same meaning given
21 such terms in section 602.

22 “(e) LIMITATION.—Nothing in this section shall be
23 deemed or construed to relieve, preclude, or obviate the
24 application of the ratings standards set forth in the TV
25 Parental Guidelines (Video Programming Ratings, Report

1 and Order, CS Docket No. 97–55, 13 F.C.C. Rcd. 8232
2 (1998)) as such voluntary ratings were established by the
3 National Association of Broadcasters, the National Cable
4 Television Association, and the Motion Picture Association
5 of America and approved by the Commission in implemen-
6 tation of section 551.”.

7 **SEC. 8. ASSESSMENT OF THE EFFECTIVENESS OF VOL-**
8 **UNTARY RATING STANDARDS.**

9 The Commission shall—

10 (1) assess the effectiveness of measures de-
11 signed to provide parents with timely information
12 about the rating of upcoming broadcast program-
13 ming under the TV Parental Guidelines (Video Pro-
14 gramming Ratings, Report and Order, CS Docket
15 No. 97–55, 13 F.C.C. Rcd. 8232 (1998)) as such
16 voluntary ratings were established by the National
17 Association of Broadcasters, the National Cable Tel-
18 evision Association, and the Motion Picture Associa-
19 tion of America and approved by the Commission in
20 implementation of section 551 of the Telecommuni-
21 cations Act of 1996;

22 (2) assess the technical feasibility of developing
23 ratings systems from alternative sources; and

24 (3) not later than 180 days after the date of
25 enactment of this Act, report its findings based on

1 the assessment under paragraphs (1) and (2) to the
2 Committee on Commerce, Science, and Transpor-
3 tation of the United States Senate and the Com-
4 mittee on Energy and Commerce of the United
5 States House of Representatives.

6 **SEC. 9. CHILDREN'S PROGRAMMING REQUIREMENTS.**

7 (a) INCREASE IN AMOUNT OF EDUCATIONAL AND IN-
8 FORMATIONAL PROGRAMMING FOR CHILDREN.—

9 (1) IN GENERAL.—Not later than 180 days
10 after the date of the enactment of this Act, the
11 Commission shall promulgate regulations in accord-
12 ance with section 102(a) of the Children's Television
13 Act of 1990 (47 U.S.C. 303a(a)), to require that
14 each television broadcast licensee broadcast not less
15 than 6 hours of programming specifically designed
16 to serve the educational and informational needs of
17 children during hours when children are reasonably
18 likely to comprise a substantial portion of the audi-
19 ence.

20 (2) PROPORTIONAL INCREASE FOR DIGITAL
21 TELEVISION MULTICASTS.—In response to the re-
22 quirements of section 309(j)(14), the Commission
23 shall promulgate regulations in accordance with sec-
24 tion 102(a) of the Children's Television Act of 1990
25 (47 U.S.C. 303a(a)), to require each television

1 broadcast licensee providing digital multicasts to
2 provide an amount of time to broadcast program-
3 ming specifically designed to serve the educational
4 and informational needs of children during hours
5 when children are reasonably likely to comprise a
6 substantial portion of the audience in the same ratio
7 to its total amount of time provided to such chil-
8 dren's programming on its main stream under para-
9 graph (1) bears to the total amount of time provided
10 to all programming during the hours when children
11 are reasonably likely to comprise a substantial por-
12 tion of the audience.

13 (b) REPORT.—The Commission shall amend its regu-
14 lations to require each television broadcast licensee to file,
15 regularly, a report on how it met, for the year in review,
16 its obligations to serve the educational and informational
17 needs of children in accordance with section 102(a) of the
18 Children's Television Act of 1990 (47 U.S.C. 303a(a)).

19 (c) WEBSITE REQUIREMENT.—The Commission shall
20 amend its regulations to require each television broadcast
21 licensee for which there is a publicly accessible website on
22 the Internet—

23 (1) to make its report available to the public on
24 that website; or

1 (2) to provide a hyperlink on that website to
2 the report on the Commission’s website.

3 **SEC. 10. REINSTATEMENT OF VOLUNTARY CODE OF CON-**
4 **DUCT.**

5 (a) VOLUNTARY INDUSTRY CODE OF CONDUCT GOV-
6 ERNING CONTENT OF BROADCAST PROGRAMMING.—It is
7 the sense of the Congress that each television and radio
8 broadcast licensee, multichannel video programming dis-
9 tributor, or other programming service should reinstitute
10 or adopt, as the case may be, and faithfully comply with,
11 the provisions set forth in the “Television Code of the Na-
12 tional Association of Broadcasters” as adopted on Decem-
13 ber 6, 1951, with amendments thereafter, by the Tele-
14 vision Board of the National Association of Broadcasters,
15 formerly known as the National Association of Radio and
16 Television Broadcasters.

17 (b) ANTITRUST EXEMPTION.—

18 (1) IN GENERAL.—The antitrust laws as de-
19 fined in subsection (a) of the first section of the
20 Clayton Act (15 U.S.C. 12) and the law of unfair
21 competition under section 5 of the Federal Trade
22 Commission Act (15 U.S.C. 45) shall not apply to
23 any joint discussion, consideration, review, action, or
24 agreement by or among television and radio broad-
25 cast licensees, multichannel video programming dis-

1 tributors, or other programming services for the pur-
2 pose of, and limited to, developing and disseminating
3 voluntary guidelines designed to provide a code of
4 conduct regarding the content of broadcast pro-
5 grams.

6 (2) EXCEPTION.—The exemption provided for
7 in this subsection shall not apply to any joint discus-
8 sion, consideration, review, action, or agreement
9 which results in a boycott of any person, corpora-
10 tion, advertiser, or industry.

11 **SEC. 11. PREMIUM AND PAY-PER-VIEW CHANNELS EXEMPT.**

12 (a) IN GENERAL.—Nothing in this Act shall be
13 deemed or construed to apply to any premium or pay-per-
14 view service.

15 (b) DEFINITION.—For the purpose of this section,
16 the term “premium or pay-per-view service” shall mean
17 any video programming provided by a multichannel video
18 programming distributor that is offered on a per channel
19 or per program basis.

○