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ABSTRACT

This report provides transcripts of two hearings held 6 months apart before a subcommittee of the House of Representatives on three bills which would require the Federal Communications Commission to reinstate restrictions on advertising on children's television programs. The texts of the bills under consideration, H.R. 3288, H.R. 3966, and H.R. 4125 are also provided. Testimony and statements were presented by: (1) Representative Terry L. Bruce of Illinois; (2) Peggy Charren, Action for Children's Television; (3) Robert Chase, National Education Association; (4) John Claster, Claster Television; (5) William Dietz, Tufts New England Medical Center; (6) Wallace Jorgenson, National Association of Broadcasters; (7) Dale L. Kunkel, American Psychological Association; (8) Geraldine B. Laybourne, Nickelodeon; (9) Gerald S. Lesser, Harvard University; (10) Preston R. Padden, Association of Independent Television Stations; (11) Shaun Sheehan, Tribune Broadcasting Co.; (12) Jerome Singer, Yale University; (13) Ellen Wartella, University of Illinois; (14) John Weems, Mattel, Inc.; and (15) Gilbert H. Weil, Association of National Advertisers. Material submitted by the following organizations is also included in the record: American Psychological Association; Association of Advertising Agencies; National Consumers League; National Parent and Teachers Association; and the New York City Department of Consumer Affairs. (EW)

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COMMERCIALIZATION OF CHILDREN'S TELEVISION

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HEARINGS

BEFORE THE

SUBCOMMITTEE ON
TELECOMMUNICATIONS AND FINANCE

OF THE

COMMITTEE ON
ENERGY AND COMMERCE
HOUSE OF REPRESENTATIVES

ONE HUNDREDTH CONGRESS

ON

H.R. 3288, H.R. 3966, AND H.R. 4125

BILLS TO REQUIRE THE FCC TO REINSTATE RESTRICTIONS ON ADVERTISING DURING CHILDREN'S TELEVISION, TO ENFORCE THE OBLIGATION OF BROADCASTERS TO MEET THE EDUCATIONAL NEEDS OF THE CHILD AUDIENCE, AND FOR OTHER PURPOSES

SEPTEMBER 15, 1987, AND MARCH 17, 1988

Serial No. 100-93

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COMMERCIALIZATION OF CHILDREN'S TELEVISION

TUESDAY, SEPTEMBER 15, 1987

HOUSE OF REPRESENTATIVES,
COMMITTEE ON ENERGY AND COMMERCE,
SUBCOMMITTEE ON TELECOMMUNICATIONS AND FINANCE,
Washington, DC.

The subcommittee met, pursuant to notice, at 9:30 a.m., in room 2123, Rayburn House Office Building, Hon. Edward J. Markey (chairman) presiding.

Mr. MARKEY. Good morning.

For decades, the broadcasting industry, the Federal Communications Commission, concerned parents, educators and psychologists have recognized that children are a special audience and that in developing programming for children there is a special responsibility.

In 1974, the Federal Communications Commission stated that Because of their immaturity and their special needs, children require programming designed specially for them. Accordingly, we expect television broadcasters, as trustees of a valuable public resource, to develop and present programs which will serve the unique needs of the child audience.

Also in 1974, after exhaustive hearings and voluminous filings by interested parties, the FCC adopted commercial guidelines for children's television. Those guidelines, which grew out of voluntary guidelines established by the broadcasting industry, limited the amount of commercial matter that could be aired during children's programming and banned other abuses that could serve to commercially exploit children.

For nearly a decade, the FCC monitored broadcaster performance under these guidelines. Then, in 1984, the Fowler Commission, in its headlong rush to deregulate the broadcast industry, repealed all commercial guidelines, including those for children's television. The Commission virtually abandoned its responsibilities to monitor the television industry as it relates to children.

And worse, in contrast to the thoughtful and cautious proceedings that preceded the Commission's adoption of the commercial guidelines, the Commission's repeal of the guidelines was a slapdash effort that failed to meet the Commission's statutory responsibilities as a regulatory Agency.

Earlier this year, in a scathing opinion, the Court of Appeals for the District of Columbia held that the Commission had failed to justify adequately its repeal of the guidelines and ordered the Com-

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mission to revise its decision. The court stated that, as the Agency has seen it, kids are different. The Commission cannot now cavalierly revoke its special policy for youngsters without re-examining its earlier conclusions.

Unfortunately, much damage has been done to the children's television landscape by the Commission's actions.

If I may paraphrase Newton Minnow, children's television today is not a wasteland, but a waste site strewn with war toys, insipid cartoons and oversweetened cereals.

The Patrick Commission, taking its cue from its predecessor, has continued to turn a blind eye to this reality. Moreover, despite the clear command of the court, the Commission to date has steadfastly refused even to initiate a proceeding on this crucially important issue.

It is not surprising, however, that like a stubborn child, the Commission has refused to act. The Reagan era FCC has shown is disquieting tendency to ignore procedures and clear congressional commands in pursuit of its own narrow, ideological agenda.

For that reason, later today I will join with my good friend and colleague, the gentleman from Illinois, Mr. Bruce, in introducing legislation reinstating the FCC's former commercial guidelines for children's television. The legislation we will introduce today is a step toward preventing the commercial exploitation of our Nation's most valuable and precious resource—our children.

The Commission's laissez faire attitude apparently also has affected the toy industry. Despite repeated invitations by the subcommittee to testify about the current state of children's television, many toy companies and program producers indicated that, absent a subpoena, they would not grace these proceedings with their presence.

It is particularly galling that Hasbro, a company that has profited from program length commercials and program/toy tie-ins to the tune of tens of millions of dollars and that has over 7,000 employees, could not spare anyone to testify about its practices or to discuss the various policy options that we will consider today.

I want to extend the subcommittee's thanks to John Weems of Mattel and Preston Padden of the Association of Independent Television Stations for joining us today. I welcome the opportunity to discuss the advent of interactive television technology with Mr. Weems of Mattel and the state of syndicated children's programming with Mr. Padden of INTV. I also want to extend a warm welcome to our third witness on the first panel, Ms. Peggy Charren of Action for Children's Television. Ms. Charren is a noted activist for improved children's television programming.

On our second panel we will hear from several outstanding academicians, psychologists and educators. I am certain that their testimony will be very informative and instructive.

Before I move to our first panel, I want to introduce some of our special guests. Generally, congressional hearings have as witnesses either industry spokespersons or celebrities. As I mentioned earlier, we have been relatively unsuccessful in getting industry cooperation for these hearings.

But we have lined up several celebrity guests and I think that their presence here today will illustrate graphically some of the

issues and concerns that many critics have expressed about children's television.

First, I guess, is My Little Pony from Hasbro. The next is Care Bears. These are all toys that are advertised on television. That is a Hasbro toy. The Charmkins, Glo Friends, Transformers are also here.

From Kenner, we have M.A.S.K. It looks like an automobile with a weapon, and it looks like something on the L.A. Freeway.

We have two Centurions here. This is a Centurion, as well. We won't attack anybody here with it.

And this is from the movie, it is not from TV, but we thought that we would balance it out by having a Republican. This is Arnold Schwartzeneger.

So, all the rest of these toys that are down here are all TV shows, and we thought that it would give you a little bit of a sense, before we reached the interactive TV section, as well, so that you could have a sense of what we are talking about.

So, with that, the time of the Chair has expired for an opening statement, and we now turn to any other members that wish to make opening statements.

The Chair recognizes the gentleman from Washington State, Mr. Swift.

Mr. SWIFT. Thank you, Mr. Chairman.

Whatever happened to the Captain Midnight Decoder Ring?

It seems to me that we are here again in a hearing that would be unnecessary if the Federal Communications Commission, this Commission, were doing its job. The actions and, in some instances, the lack of action of this Commission invite, beg, plead Congress to get into micro-management of telecommunications policy, and that is unfortunate. Frankly, it makes me uncomfortable.

When you pass legislation, it is hard to do it with adequate precision. Legislation is, in and of itself, clumsy. But a Commission which simply believes that an even clumsier object, clumsier tool, the marketplace, is going to solve all the problems in the world, including wheat rust and dry rot, abandons areas of responsibility that, if anyone is going to look after them, it has to be Congress.

The whole issue of lack of enough good children's television, let alone abuses of children's television, is a very, very difficult area.

I have, I know, opposed some proposals that have been made for mandatory amounts of children's television, and so forth, because I think that is the wrong way to go. But I must tell you and confess, I am at a loss as to what else to do in the face of a Commission that won't undertake its responsibilities and an industry that seems to not be able to practice adequate self control.

There are some very good children's things on television, and I am talking about commercial television, the networks and independent stations. We don't hear enough about them, and perhaps sometimes at hearings like this we don't mention them frequently enough. But there are some horrendous abuses, as well, and we need to pay attention to them.

I once knew a station manager who was stripping, in the afternoon at 4 p.m., reruns of the Untouchables. We went to him and we said, it seems to us this is the kind of violence in children's television that people have been raising Cain about. And he said,

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"Well, you don't understand. We are letting all of the other stations go for the children, we are going for the adult audience."

Now, if you believe that, please see me afterwards. I have a whole bunch of things I would like to sell you.

That kind of lack of restraint on the part of the television industry, individual stations and networks, and lack of restraint, very frankly, by some of the sponsors, is what is prompting this hearing and, if it continues, will no doubt prompt legislation to be proposed, legislation that I fear will be, as I suggested, heavy-handed and imprecise. But that is the only alternative we seem to have in the face of a Commission that is daring us to do anything, and an industry that likewise in many fronts is daring Congress to take action.

I yield back the balance of my time.

Mr. MARKEY. The gentleman's time has expired.

We now will turn to our first panel, if the panelists would come up and sit at the table, so we can commence.

We will begin with Ms. Peggy Charren, who is the President of Action for Children's Television, from Cambridge, Massachusetts. Welcome, Ms. Charren, back to this committee, as you have appeared many times in the past. We welcome you and we look forward to your testimony.

STATEMENTS OF PEGGY CHARREN, PRESIDENT, ACTION FOR CHILDREN'S TELEVISION; PRESTON R. PADDEN, PRESIDENT, ASSOCIATION OF INDEPENDENT TELEVISION STATIONS, INC., AND JOHN WEEMS, VICE PRESIDENT, MATTEL, INC.

Ms. CHARREN. It is a pleasure to be here. I feel a little bit like I felt on Nightline, when I did it once and needed two phone books.

I hope you can see me.

I am Peggy Charren, President of Action for Children's Television, and I thank you for the opportunity to testify before you today.

I would like to submit my written testimony for the record, and use my few minutes to answer seven questions about the topic at hand.

The first one is: Why is it appropriate for Congress to consider the issue of commercialization and children's TV?

It is because the Communications Act requires each television station, each broadcasting licensee, to serve the public. That obligation includes service to children, and that is why we are here.

What is TV service to children?

We think it means providing a diverse selection of programs designed for young audiences at times when they are likely to be watching. These shows should be available to all children, regardless of income.

Children are not served when their programs are designed primarily to sell, when they are program length commercials.

What are program length commercials?

In a 1974 policy statement, the FCC defined program length commercials as "programs that interweave non-commercial program content so closely with the commercial message that the entire program must be considered commercial."

Now, the FCC first used this term, not me, although very often it gets attributed to me. The FCC defined it, the FCC said you can't do it. Now, that was another FCC, obviously.

Four: What is the problem with these shows?

The first problem is that they are targeted to children, because children like commercials. They do not zap them, even when they have a VCR.

As the U.S. District Court of Appeals said in its June, 1987 opinion, it is "an unthinkable bureaucratic conclusion that the market did, in fact, operate to restrain the commercial content of children's television."

Second, program length commercials confuse editorial speech and commercial speech for the audience least likely to tell the difference. The "we will be right back after these messages" separators, those bumpers that were added because of FCC concern on this issue in 1974, are meaningless now. They are deceptive, even, because the program, too, is a commercial message.

And thirdly, and most important, these toy based programs are a barrier to market entry for other kinds of shows.

Mattel is successful with He-Man as a show, so it turns 11 other toys into programs. Mattel is successful, so Hasbro turns 11 of its toys into shows, G.I. Joe, Inhumanoids, Transformers, and there are too many to list here.

In fact, I have attached to my testimony a list of 73 product based shows, many of which have 65 episodes. And the problem is that this stuff keeps the other stuff off the air.

The other programs operate at a competitive disadvantage because they don't have enormous toy company promotion budgets.

If you want to make a biography of Helen Keller in today's marketplace, you would have to first talk Mattel into producing a Helen Keller doll.

The fifth question: How do you know these shows are designed primarily to sell?

Well, people who know tell us. Advertising Age, the industry bible, headlined an editorial on this practice, "A TV License to Steal from Kids." They are on our side, by the way, on that program length commercial issue.

The industry tells us. Robert Hubbell, a vice president of Hasbro, said, "The shows are part of the overall marketing effort." And these are all quotes from press that we picked up.

Lois Hanrahan, marketing director for Tonka Toys, said, "We believe that in order to keep kids buying Gobots, we needed to do a TV series."

Squire Rushnell, who very nicely is here today—he has been a concerned broadcaster for years. He is vice president of ABC Network—said, "Some of the syndicated shows are intended to be commercials, not valid entertainment."

The sixth question: What is the matter with interactive TV?

Well, there is nothing wrong with the technology. And it is certainly OK for home video and for cable. And Mattel is doing its Captain Power for home video, I am happy to see.

But permitting over-the-air video games that work only with a product purchase creates two classes of child viewers, the haves and the have-nots.

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Sure, you can watch Captain Power without the toy. But Mattel ads will guarantee that children will know how the show should really work. A kid can go to a shooting gallery without a quarter, but who wants to?

The problem would not be serious with only one or two shows that worked like this. But competition will bring that electronic signal to 75 shows before long.

Even more disturbing would be this practice on public TV shows for kids. Of course, interactive video can help learning. But children getting the head start from a Sesame Street type program that required a purchase would be those kids who least needed the education.

A democratic society cannot accept this idea for a system licensed to serve the public interest, until it is willing to pay for every poor child to have the missing joystick for those video games.

And the last question is: What should Congress do?

And I agree with Representative Swift, if the FCC were doing its job to enforce the public interest standard, you shouldn't have to do anything. But it isn't.

So, we think that you should work to pass into law the bill that is being introduced here today that Chairman Markey mentioned, the bill to reinstate commercial limitations on children's TV, and also a bill to require TV stations to serve children with programs instead of manufacturers' catalogs. There is a bill on that score in the Senate already.

Thank you.

[Testimony resumes on p. 25.]

[The prepared statement of Ms. Charren follows:]

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Remarks By

Peggy Charren
President, Action for Children's Television

The toy industry has found the added exposure of a TV show -- especially a popular one that airs five days a week -- ensures the sales of action toylines.

TV programs based on merchandise -- so called "program-length commercials" -- are often financed by a toy company's marketing budget, a further indication of the shows' role as a promotional device. TV Guide, in its June 13, 1987 article, "Creeping Commercialism: Is the Toy Business Taking Over Kids' TV?," quotes Robert Hubbell, Hasbro's vice-president for investor relations, as saying that their toy-based programs are not expected to make money. "The shows are part of the overall marketing effort," Hubbell says. "The point is, they're not designed to produce revenues per se."

The Federal Communications Commission, in 1974, defined program-length commercials as "programs that interweave 'noncommercial' program content so closely with the commercial message that the entire program must be considered commercial." (Applicability of Commission Policies on Program-Length Commercials 44 F.C.C. 2d 985 (1974).)

Program-length commercials are a phenomenon unique to children's television. They fail to distinguish clearly between programming and advertising. These 30-minute ads can prove deceptive and disappointing as well. The robotic vehicle from outer space purchased at the toy store is unlikely to perform the amazing feats of its animated counterpart on the TV show.

But the subtle, more insidious problem with program-length commercials is that they are displacing other kinds of children's shows. Non-fiction programs, live drama, music or magazine shows are all being shut out by toy promotions disguised as stories. If a children's library contained nothing but manufacturers catalogs, it would resemble the current state of children's TV.

Commercial or vested interest speech is depriving children of diverse television service and is not consistent with the "public trustee" responsibility written by law into every broadcaster's license to use the public resource known as the broadcast spectrum.

This trend of overcommercialization in children's programming was abetted in 1984 when the FCC removed its guidelines limiting the amount of advertising allowable per hour. Following a request for clarification from the National Association of Broadcasters on whether the deregulation of commercial time applied to children's programming, the FCC announced that children's TV was indeed included in the decision.

The FCC has long held that the television marketplace does not function adequately when children make up the audience. In 1974, the FCC published the "Children's Television Report and Policy Statement" which stated that children are "far more trusting of and vulnerable to commercial 'pitches' than are adults."

Children's television used to be protected by a system of checks and balances. If broadcasters were tempted to

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air deceptive advertisements aimed at young viewers, the National Association of Broadcasters Code was there to discourage them. If misleading commercials still managed to slip in, the Federal Trade Commission was there to blow the whistle on unfair advertising practices. As for programming, every three years TV stations were required to file detailed license renewal applications outlining their public service efforts. Any station failing to program in the public interest could be called before the Federal Communications Commission, with the ultimate threat of losing its license to broadcast.

Over the last few years, the measures that held broadcasters accountable to the public have eroded. The NAB Code was suspended in 1982 when a federal court judge ruled it a restraint of trade, leaving broadcasters without a set of good behavior standards. The Federal Trade Commission came under attack from within, with Chairman James C. Miller arguing that only commercials causing "substantial injury" should be prohibited by law and that legal action against "harmful" commercials should take into account the cost and effectiveness of potential remedies. Federal Communications Commission Chairman Mark Fowler led the stampede against regulation, removing restraints on broadcasters in the name of marketplace economics. In 1981, his FCC extended the duration of TV stations' licenses from three to five years and changed the renewal form to a postcard, relieving broadcasters of any responsibility to describe their public service programming. In December 1983,

the FCC removed any doubt that it cares about holding TV stations accountable for service to children by modifying its policy on children's television, in effect freeing broadcasters from their obligation to young viewers.

This Committee should be aware of one area in particular which is threatening to undermine the foundation of all children's programming -- commercialization. In this area, the FCC has completely ignored the past and opened up the Pandora's Box of outright commercialism. In 1969, the Commission decided a case called Hot Wheels where it found that the Hot Wheels television show was nothing more than a program-length commercial designed to promote the sale of Hot Wheels toys and was therefore not acceptable program fare. The Commission has now reversed that decision.

At last count, there were 75 programs which are product-based. For example, some of the most popular programs which are based on toys are Thundercats, Challenge of the GoBots, Jem, Transformers, G.I. Joe, and Care Bears. From the financial aspect -- cost of programming, assurance of strong commercial sponsorship -- these product-programs have obvious advantages over those not produced by toy manufacturers and they are therefore more likely to be aired. In a recent report on this misguided trend, Newsweek magazine stated:

> [T]he creative order of things has been reversed. Instead of deriving the product from the program, toymakers and animation houses now build entire kidvid shows around planned or existing playthings. The programs can become, in effect, little more than half-hour commercials for their toy casts (May 13, 1985).

Even broadcasters recognize this type of children's programming for what it is. Rupert Murdoch, in a recent interview, commented: "There's nothing wrong with advertising to a child audience, but to make your programming that way I think is really a prostitution of the broadcasters' function. If you did that in a newspaper, you'd be run out of town" (Broadcasting, April 13, 1987). This country's broadcasters and the Federal Communications Commission should be ashamed of themselves for exploiting children in this fashion -- the state of children's television is a national scandal.

There do not appear to be any signs that things will improve at the Commission either, at least without positive action by the Congress or the Courts. The newest trend is interactive television. Through inaudible signals inserted into television shows, child viewers will be able to "interact" with a television program if they purchase a special toy (which can cost as much as $250) capable of picking up the signal. The whole thrust of the program is its interaction via the toy and the whole thrust of the toy is its use with the program. The greater the sales of the toy, the more successful the program. In February of this year, ACT filed with the FCC a petition seeking a declaratory ruling that these shows violate the public interest and asking, at the least, that the Commission open an immediate inquiry on the serious issues raised by this newest form of program-length commercials. ACT told the Commission that children

are not capable of understanding that what they are really watching is a pitch for the required interactive toy and that the programming thus takes unfair advantage of its child audience. Our concern has fallen on deaf ears. No action has been taken on that petition and the programs will be broadcast this month.

The level of commercialization of children's programming has risen significantly since television deregulation. Prior to the FCC's repeal of its advertising guidelines, most broadcasters broadcast no more than the permitted 9½ minutes during Saturday and Sunday mornings and 12 minutes of commercials at other times. Once the FCC removed its guidelines, however, the level of commercials has risen significantly to the clear detriment of the public interest. A recent study examined the levels of commercial matter typically presented during weekday children's programming on independent television stations, a period when large numbers of children usually tune in.[2] (A Survey of Non-Program Content During Children's Programming on Independent Television Stations, Dale Kunkel, July 1987.)

That study found that since the FCC eliminated its guidelines with respect to children's television programming, broadcast stations began airing commercial matter far in excess of the previous levels. Moreover, roughly 22% of the total time devoted to children's programming consisted

[2]The majority of viewing by children is during the week, not on weekends.

of commercial matter.

Our own evidence corroborates this study. Thus, in the New York market, independent station Channel 5 broadcasts on Saturday morning "Lady Lovelylocks," "Popples," and the "Get Along Gang" from 8:30 - 10:00 a.m. According to Broadcast Advertisers Reports, Inc., these shows average 6:00, 6:00, and 5:30 minutes of commercial advertisements per half hour. These levels significantly exceed the FCC prior 9½ minute guidelines, with a clear and present detriment to the public interest. This is by no means an isolated example. In Boston, on Sunday mornings Channel 56 broadcasts "Dennis the Menace" followed by "Jem," and thereby has attained 13½ minutes of commercial advertisements per hour, again well over the 9½ minute standard.

During the weekdays the situation is as bad. Thus, in Philadelphia, "She-Ra, Princess of Power" is broadcast Monday to Friday, sometimes with as much as 8:30 minutes per half hour. If these shows are broadcast back-to-back, there could be 16½ minutes per hour, significantly over the 12 minute standard for weekday broadcasts. (Based on Broadcast Advertisers Reports, May 1987, Local TV and Local Barter, Children's Programs in New York, Los Angeles, Chicago, Philadelphia, San Francisco and Boston Markets.) Clearly, there is currently a serious problem with respect to commercialization of children's television programming which the FCC must address now. Because

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children will watch television regardless of the level of commercial advertisements (hence the marketplace offers no incentive to broadcasters to limit commercials and in fact gives the opposite incentive), this situation cannot be expected to improve without FCC action.

Despite its earlier policies concerning children, the FCC in 1984 eliminated restrictions on children's advertising. This arbitrary decision opened the door for unlimited commercials to be directed to young viewers.

The FCC's sudden turnabout prompted ACT to take the FCC to court. The case was recently heard in the United States Court of Appeals. On June 26, 1987 the unanimous decision was handed down by Judge Kenneth Starr, a Reagan appointee well known for his staunch conservatism. In his opinion on the case he wrote: "[W]ithout explanation the Commission has suddenly embraced what had theretofore been an unthinkable bureaucratic conclusion that the market did in fact operate to restrain the commercial content of children's television."

The Court of Appeals' strongly worded opinion outlines the FCC's previous policies concerning children's television and its subsequent overturning of regulations. It cites the sole explanation that the FCC offered for its action, a statement from the "Memorandum Opinion and Order on Reconsideration of the the Report" from 1986:

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> Elimination of the policy is consistent with [the] Commission's general de-emphasis regarding quantitative guidelines engendered in the 'Report and Order.' Moreover, the Commission has consistently noted the importance of advertising as a support mechanism for the presentation of children's programming.

The court's opinion confirms ACT's complaint that the FCC did not offer adequate reasoning for its change in policy:

> The commission's barebones incantation of two abbreviated rationales cannot do service as the requisite 'reasoned basis' for altering its long-established policy....[T]he Commission's assertion of the obvious -- that commercials help support children's television programming -- scarcely justifies elimination of all children's television commercialization guidelines....The FCC has not found, say, that present levels of children's programming are inadequate; that additional commercialization is necessary to provide greater diversity in children's programming; or that increased levels of children's television commercialization pose no threat to the public interest. Bereft of bolstering findings of the sort, the Commission's invocation of the obvious fact that commercials pay the tab for children's programming hardly explains the leap to a 'hands off' commercialization policy.

The case was remanded to the FCC. Many people see the court's decision as a victory for children, the first step toward eliminating the rampant overcommercialization that plagues children's television.

Although some broadcasters and toy manufacturers who have benefitted from deregulation are not worried that the court's ruling will lead to a change in the FCC's children's

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television policy, some believe that they may have to alter their practices. John Bohach, Vice President of advertising for Kenner Products, has said that the "potential is there to spend more on advertising. We will have to create awareness for a product that no longer will be supported by a TV show" (Advertising Age, July 6, 1987, "FCC's Review Could Shift Toy Ad Budgets").

There are even some broadcasters who agree with ACT on this issue. For example, Dan Berkery, the general manager of WSBK-TV, an independent Boston station, was quoted in the June 27 Boston Herald, saying:

> I agree with the court 100 percent and find myself more in accord with Peggy Charren than I do with the toy manufacturers. Children are children, they are young and they are susceptible to influence, especially by the sights, sounds and motions on the tube.

He added:

> I don't think the TV stations, myself included, have guarded the children. We tend to look at it as a monetary thing.

In addition, ACT submits that in light of the recent evidence regarding the current levels of commercialization of children's television programming as well as the direction from the Court requiring the Commission to conform its actions with its stated policy goals, the FCC is required to immediately

reimpose[3] its guidelines so as to insure adequate protection of the unique child audience and therefore, the essential public interest. It is inconceivable for the FCC to maintain that the public interest can be served by ignoring the needs of children and relying on the marketplace. The market has again demonstrated that the child audience is unique. These violations of the public interest are occurring now and the FCC must therefore act immediately to prevent further damage to the public interest.

All that remains to ensure that television serves young children is Congress, under the jurisdiction of which both the FCC and the FTC lie. Senator Frank Lautenberg of New Jersey and Senator Timothy Wirth of Colorado, recognizing that commercial TV has turned its back on children, have introduced a measure to increase programming designed to

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[3]The Commission can then issue a notice if it believes that there is a need to obtain information on some facet. What the Commission cannot properly do, in light of the above showing, is simply to drift and do nothing for a significant period of time, while the public interest suffers. We stress that the Commission will be restoring a long established policy which, as the Court found, it unlawfully set aside. In these circumstances that policy should be restored now, even if the Commission does contemplate some further proceedings. Any revision could await the conclusion of such proceedings, if any. We see no rational basis for any course, temporary or permanent, other than, at the least, restoration of the policy, which goes hand-in-hand with the policy on host-selling and on separation of programming and advertising. We do note that in any further proceedings ACT would argue vigorously that there is only one standard for "prime time" for children (i.e. 9½ minutes), and that such prime time clearly extends to the heavy child-listening periods in the weekday daytime hours; that therefore the 9½ minute standard should also be extended to these periods.

enhance the education of children. The United States has convincing proof that the time has come to mandate more educational television. A Nation at Risk: The Imperative for Educational Reform, published by the National Commission on Excellence in Education, offerred unprecedented and shocking findings of educational decline. The National Science Board, in a 1983 report for the National Science Foundation called Educating Americans for the 21st Century, found America's comparative advantage in education in the international community "precarious" and "strongly challenged." Never before has our country been so painfully confronted with the enormous economic and social costs associated with failure to compete adequately in international markets; for this reason, the board specifically recommended that "federal regulation of commercial stations should include, at a time convenient from the point-of-view of the student, a required period of educational programming for children."

Lastly, some statistics about the audience we are talking about:

- We are used to thinking of the average American family as a working father, a mother at home and two children. Only 7% of families now mirror this definition.
- Over 52% of women are working full time, including over half, or 20 million mothers, with children under age six.

- One half the children born this year will live in a single parent family before reaching the age of 18.
- From 1979 to 1983, the number of children in poverty grew by 3.7 million; almost half of the poor in the U.S. are children. Black children are twice as likely to be poor as white children.

ACT does not expect broadcasters to end poverty, but we do expect them to fulfill their licensee obligation to serve this vulnerable audience, children.

When faced with concern about the current state of commercial TV service to kids, broadcasters and the FCC talk about all the alternatives available for children. Obviously, many families cannot afford pay cable and home video.

The Committee for Economic Development, a public policy research group whose 225 trustees are mostly top corporate executives, released a report last week entitled, "Children in Need: Investment Strategies for the Educationally Disadvantaged." It warns that the United States is creating "a permanent underclass of young people" who cannot hold jobs because they lack fundamental literacy skills and work habits. The report stated:

> This nation cannot continue to compete and prosper in the global arena when more than one-fifth of our children live in poverty and a third grow up in ignorance. The nation can ill afford such an

> egregious waste of human resources. Allowing this to continue will not only impoverish these children, it will impoverish our nation -- culturally, politically and economically.

Television can be a major force in enriching the lives of these children. Let us work together to ensure that we do not waste this public resource.

In last week's Time magazine, Tip O'Neill says that Ronald Reagan's "program wasn't fair." He said, "It took from the truly needy and gave to the truly greedy." I believe the same can be said of today's alliance between commercial broadcasters and toy manufacturers. Toy-based programs take from the truly needy and give to the truly greedy.

What is needed now more than ever is for Congress to make certain that broadcasters reinstate commercial limitations on children's programs and offer alternatives to program-length commercials. Television can do better than to constantly search for new, improved ways of getting children to move from the toy box to the TV set and then back to the toy store for the next installment of the Big Sell!

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Quotes on the Commercialization of Children's Television

Lois Hanrahan, Marketing Director, Tonka Toys:

"We believe that in order to keep the category exciting, in order to keep kids buying GoBots, we needed to do a TV series."

"Are Children Being Brainwashed to Buy Toys?" Newsday Magazine, Feb. 17, 1985, p. 13.

Ken Kaeff, Management Supervisor for Jordan, Case and McGrath (agency that conceived GoBots):

"Without a story, the GoBot's just another toy with a neat trick that a kid doesn't know what to do with after 15 minutes."

Article in Living Section, Boston Globe, Dec. 17, 1985, p. 25.

John Beebe, Senior Vice President, D & D Entertainment Corp:

"No question, having a presence in television enhances the image of the games....It's a marketing opportunity."

"Are Children Being Brainwashed to Buy Toys?" Newsday Magazine, Feb. 17, 1985, p. 26.

Tom Griffin, Chairman, Sunbow Productions:

"I'd probably change the story line if [Hasbro-Bradley] hated it. But it has nothing to do with a contract. It has to do with a relationship."

"Are Children Being Brainwashed to Buy Toys?" Newsday Magazine, Feb. 17, 1985, p. 16.

Carole MacGillvray, President, Marketing and Design Services, General Mills:

"We cannot deny that our TV specials are promotional tools."

"Toys are Programs Too," Jan Cherubin, Channels, May/June 1984, pp. 31-33.

Paul Valentine, toy industry analyst for Standard & Poor:

"It's no coincidence that virtually every top selling toy on the market this year has a prepacked fantasy or story line."

Article in Living Section, Boston Globe, Dec. 17, 1984, p. 25.

Squire Rushnell, Vice President for Long Range Planning and Children's TV, American Broadcasting Company:

> "I would have to say that some of the syndicated shows are intended to be commercials, not valid entertainment."
>
> "Are Children Being Brainwashed to Buy Toys?" Newsday Magazine, Feb. 17, 1985, p. 26.

Toy magazine advertising copy from Hasbro-Bradley:

> "Every G.I. Joe figure, every vehicle, every accessory, will star in this historic television first! Think of the enormous excitement this series will generate among kids for all G.I. Joe toys. Get ready for the sales impact."
>
> "Are Children Being Brainwashed to Buy Toys?" Newsday Magazine, Feb. 17, 1985, p. 26.

David Sandberg, Brand Manager, Care Bears:

> "The programming comes directly from our creative department. We come up with the story lines."
>
> "Are Children Being Brainwashed to Buy Toys?" Newsday Magazine, Feb. 17, 1985, p. 16.

Jack Chojnacki, Vice President, Licensing Division, American Greetings:

> "We told the writer, if you need new characters for the plot, keep in mind characters that can be greeting cards, dolls, merchandise."
>
> "Toys are Programs Too," Jan Cherubin, Channels, May/June 1984, pp. 31-33.

Professor Ronald G. Slaby, Center for Research on Children's Television, Harvard University:

> "Programs like this are unfair to children. Kids cannot distinguish the special merchandising tools that are subtly being used to interest them in buying these products or in getting their parents to buy the toys for them. As it is, we have a disgraceful shortage of programs for children. Among the programs we do have, to have so many based on toys is a horrendous disgrace. Some restriction on this practice is needed soon."
>
> "Are Children Being Brainwashed to Buy Toys?" Newsday Magazine, Feb. 17, 1985, p. 13.

PARTIAL LISTING OF TOYS THAT HAVE BEEN TURNED INTO TV SHOWS

AMERICAN GREETINGS
Strawberry Shortcake

BALLY MIDWAY TOY COMPANY
Ms. Pacman
Pacman
Pitfall

COLECO TOY COMPANY
Cabbage Patch Kids
Donkey Kong
Donkey Kong Jr.
Sectaurs

HALLMARK
Hugga Bunch

HASBRO TOY COMPANY
The Charmkins
*Force III
G.I. Joe: A Real American Hero
Glo Friends
Inhumanoids
Jem
*Moon Dreamers
My Little Pony
The Transformers
*Visionaries
The Wuzzles

IDEAL TOY COMPANY
The Kindles
Robo Force
Rubik the Amazing Cube

IMPULSE, INC. TOY COMPANY
* ** Saper Rider and the Star Sheriffs

KENNER TOY COMPANY
The Biskitts
Care Bears
Centurions
M.A.S.K.
Rose Petal Place
SilverHawks

LEWIS GALOOB TOY COMPANY
Golden Girl

LJN TOY COMPANY
*Bionic Six
The Blinkins
Photon
The Shirt Tales
Snuggles the Seal
ThunderCats
*TigerSharks
Voltron, Defender of the Universe

MATCHBOX TOY COMPANY
Robotech
Tranzor-Z

MATTEL TOY COMPANY
*BraveStarr
* ** Captain Power and the Soldiers of the Future
He-Man and the Masters of the Universe
Herself the Elf
Jayce and the Wheeled Warriors
Lady Lovely Locks & the Pixietails
Poochie
Popples
*My Pet Monster
Monchhichis
Rainbow Brite
She-Ra, Princess of Power

MILTON BRADLEY TOY COMPANY
Robotix

PARKER BROTHERS TOY COMPANY
Frogger
Q*Bert

SANRIO
Hello Kitty

SELCHOW AND RIGHTER TOY COMPANY
Scrabble People

TOMY TOY COMPANY
The Get Along Gang
The Snorks
Sweet Sea

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* = New for Fall 1987
** = Interactive program
* ** = Interactive program beginning Fall 1987

PARTIAL LISTING (CONTINUED)

TONKA TOY COMPANY
GoBots
*Mapletown
Pound Puppies
Rock Lords
*Spiral Zone
Star Fairies
*Supernaturals

TOPPS
*Garbage Pail Kids

TSR TOY COMPANY
Dungeons and Dragons

WORLDS OF WONDER TOY COMPANY
Lazer Tag
Teddy Ruxpin
** Vytor the Starfire Champion

Mr. MARKEY. Thank you.

Our second witness is Mr. Preston Padden, who is the President of the Association of Independent Television Stations, located here in Washington, D.C.

Welcome, Mr. Padden.

STATEMENT OF PRESTON R. PADDEN

Mr. PADDEN. Thank you, Mr. Chairman. I am actually glad to be here, and I hope that we can contribute in an open and constructive way to this discussion this morning.

I have a written statement. With your permission, I would like to request that it be submitted for the record.

Mr. MARKEY. All of the written statements will be put in the record.

Mr. PADDEN. I think with the discussion we have had of the 1974 Children's Policy Statement, it is important to go back to that statement. And really, the baseline concern in 1974 was that there was not enough programming for children. That was the principal concern.

And I am happy to tell you that there has been a dramatic change in that, and today we can tell you that there is a greater quantity and variety of programming for children than at any time in the history of the television business. And I think it is important that we not lose sight of that, as we move on to other issue.

I also think it is important to point out that the growth of independent television stations has contributed significantly to the growth of programming for children.

Our stations typically try and compete by counter-programming. If the networks are trying to reach the adult audience in the afternoon with soap operas, independent stations will typically program in that time period for children.

Now, in 1974, when the Commission adopted its policy statement, there were only 76 independent stations in the country. Today there is a total of 300, covering 89 percent of all television homes.

Attachment No. 1 to my written testimony is a survey of the quantity of children's programming on independent television today. And if you will glance at it, you will see that, on average, independent stations present 24.3 hours of programming a week specifically designed for children. And I want to emphasize, that doesn't include the all family programming that they present.

And of all of the media, the networks, cable, home video, everything else out there on the media landscape, independent television stations are the only medium that present free programming for children 7 days a week on a universal basis.

Now, the next obvious question is, what does our programming look like? And I am sure we are going to hear a lot of views today about what people like and what people don't like, and I am certainly not here to tell you that we are perfect and that there is no room for improvement.

But a lot of our programming is quite good and contains information and educational content. I brought with me a short tape to show you a few examples. Included on the tape are excerpts from For Kid's Sake, which is running on over 100 independent and af-

filiate stations, Cartoon Clubhouse from KXTX in Dallas, Kid's Tips from WLVI in Boston, Kid's Time from KTXX in Hartford, Bozo from WGN in Chicago, Wallace and Ladmo from KPHO in Phoenix, Blinky's Fun Club from KWGN in Denver, Zoobilee Zoo, which is a syndicated program, and pro-social messages from the end of the He-Man Show.

Mr. MARKEY. Do you want to show them now?

Mr. PADDEN. Yes,sir.

Mr. MARKEY. OK.

[Videotape presentation.]

Mr. PADDEN. Thank you, Mr. Chairman, for indulging us that tape. I will try and hurry through the rest of my points here.

I wanted to mention the area of commercial practices. Since repeal of the Commission's guidelines, it is our judgment that the overwhelming majority of stations have responded in a responsible and restrained manner.

Now, we checked Professor Kunkel's study, because we were concerned about the allegations that were being made of dramatic increases in the amount of commercial material. And what we found was what is apparently a good faith misunderstanding of what the old guidelines required.

We went back to the renewal form that the FCC used to implement those guidelines, and in the renewal form the question asked: Have you run programs with more than 9½ or 12 minutes of commercial matter?

We went to the definitions section and found that it was very clearly defmed as either product ads or promos where the advertiser had a contract where he had paid for the inclusion of his name in a promo. Otherwise, promos didn't count as commercial matter and certainly PSAs don't count as commercial matter. The separator devices don't count, and news vignettes certainly do not count.

And yet, apparently focusing on the old NAB code, which for some areas did include all non-program material, Professor Kunkel went back and included all of those categories, PSAs, news vignettes, bumpers and promos, as well as commercials, in coming up with his title.

Now, he broke them out separately. And if you look at Professor Kunkel's study, the very first column is headed "Product Ads." And if you look down that column and average it, you will see that in his own study the stations only averaged 10½ minutes of product ads over both weekdays and weekends, approximating the old Commission guidelines.

So, we don't believe that study makes out the case that there has been any dramatic increase requiring any response.

With regard to interactivity, I will let John speak mostly to that. I just want to note that when I was a kid I had a Winky Dink screen that my parents got me so I wouldn't crayon on the television set. With Winky Dink, you sent away and got this screen and you would color along with him. So, I don't think interactivity is new.

Certainly, with home computers and VCRs and a lot of other new information age products that our children are becoming literate with long before their parents are, I really question whether we want to block broadcasters out of being a part of this new informa-

tion age and make us second class citizens, really, and make all of the people who can't afford home video and cable not able to participate in this new technology.

In closing, I want to emphasize that we are operating in a very competitive marketplace out there. We have got cable—and as I was just discussing with some of you yesterday, a Federal Court in Santa Cruz, California basically ruled that the entire Cable Act is unconstitutional, that there can be no exclusive franchises, you can't require them to wire out the whole city, you can't police any of their activities.

And when people talk about television, there is a tendency to focus on broadcasters. I think today we need to focus more widely.

There is also attached to my testimony an article that clearly describes, we are losing programs to the home video industry. Programs that were produced with the idea of putting them on broadcasting are going to home video.

We don't have a closed mind about regulation or legislation in this area. We are not going to be dogmatic in our dealing with the subcommittee.

But we really would ask you to look closely at whether this is the right time for the Government to be stepping in and singling out the broadcasters for regulation.

We are doing a study of our own as to why children's audience levels are down. We think maybe the marketplace is capable of sending signals to us. And we certainly will work with the subcommittee's staff and act, as that study goes forward, and share the results with you.

Thank you very much, Mr. Chairman.

[Testimony resumes on p. 60.]

[The prepared statement and attachments of Mr. Padden follow:]

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TESTIMONY OF

PRESTON R. PADDEN

PRESIDENT

ASSOCIATION OF INDEPENDENT TELEVISION STATIONS, INC.

Thank you Mr. Chairman. I appreciate the opportunity to appear before you and the members of the Subcommittee this morning.

INTV is a voluntary association which represents the interests of America's Independent television stations. Because we are a small organization with modest resources, we seek to limit the scope of our activities to issues that have a unique or a disproportionate impact on Independent stations. Children's television programming and advertising practices are certainly such issues.

At the outset, I want to emphasize that I am not here this morning to endorse, or to oppose, any legislative proposal. Nor am I here this morning to comment on how the FCC should respond to the recent decision of the United States Court of Appeals remanding, for further consideration and explanation, the FCC's decision repealing its children's television commercial guidelines. Our Board has not met since the issuance of that decision. And finally, I am not here to make legal arguments about limitations on the authority of the FCC or the United States Congress to adopt regulations or statutes regarding children's programming or commercial practices. Whatever the legal arguments may be, they can be left for another day.

Instead, I'd like to take the time allotted me this morning to provide the Subcommittee with a historical perspective on Independent television stations and their children's programming and advertising practices. In addition, we want to provide the Subcommittee with factual information regarding today's children's television marketplace.

And finally, we want to provide the Subcommittee with information regarding a ground-breaking research project which INTV has commissioned to understand better, the changes in children's television viewing habits and preferences.

Quantitative Sufficiency of Television Programming for Children

Historically, the most fundamental base-line concern of the FCC and the Congress regarding children's television programming has been the issue of quantitative sufficiency. In 1974, the FCC issued its seminal Children's Television Programming Report and Policy Statement. The thrust of that Report focused on the need for an increase in the amount of television programming designed for children. Happily, the growth of Independent television stations has played a major role in the fulfillment of that need.

Independent stations typically present a substantial amount of programming designed for children -- far more than do our network affiliated competitors. This difference derives not from a superior sense of public service on the part of the Independents, but from their marketplace niche. Independent stations have sought to compete utilizing a counter programming strategy. While the network affiliates program for adults with news and talk in the morning and soap operas in the afternoon, the Independents have sought to reach the children's audience during these time periods.

In 1974 when the Commission expressed its concern about the shortage of children's programming, there were only 76 Independent stations in the entire country. Today the number of Independent

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stations has more than quadrupled to a total in excess of 300 stations serving 130 markets and over 89 percent of all TV homes. The Independent stations provide a free, over-the-air service, which is available to all viewers, rich and poor, rural and urban. That service continues to include a substantial amount of children's programming.

Appended as Attachment No. 1 to my testimony is an analysis of children's programming on Independent stations as of February 1987. The survey covers a representative sample of 30 markets. It demonstrates that Independent stations currently present an average of 24.3 hours per week of children's programming spread throughout both weekdays and weekends.

These data demonstrate that the growth of Independent television has occasioned parallel growth in children's programming. As Independent television service has spread to additional markets, consumers in those markets have gained access to free television programming for children. In considering other areas of concern regarding children's television, it is helpful to keep in mind that the base-line public interest concern, has been to assure an adequate quantitative sufficiency of kids programming. That base-line concern has largely been satisfied by the growth of Independent television.

Qualitative Aspects of Children's Television Programming

Concerns regarding the quality of children's programming are much more difficult to address. First of all, quality is an inherently subjective judgment. And it is a truism, that does not need to be belabored, that neither the FCC nor the Congress can effectively

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mandate program quality.

In the testimony here today you will undoubtedly hear a great deal about what different people like and don't like in children's television programming. I certainly have no intention of making any sweeping endorsements of every children's program currently on the air. Children's programming, just like adult programming, varies in quality. However, at least some of the programs presented by our stations contain informational and/or educational components and would seem to meet the test of "high quality". As "Sesame Street" has taught us, it is possible for information and educational content to be skillfully woven into entertaining programming.

In an effort to put our best foot forward we have prepared a short tape containing excerpts of children's programming from Independent television stations. Our examples include local programs, syndicated programs, programs broadcast Monday through Friday, Specials, PSAs and vignettes. Specifically, our tape includes: the "For Kids Sake" campaign run on stations KRIV Houston and WNYW New York; "Cartoon Clubhouse", a local program with informational elements from KXTX Dallas; "Kid Tips", short informational vignettes for kids from WLVI Boston; "Kids Time", specials from WTXX in Hartford; "Bozo", a local Monday through Friday program with informational elements from WGN Chicago; the "Wallace and Ladmo Show" a Monday through Friday local program with informational elements from KPHO Phoenix; "Blinkey's Fun Club" a Monday through Friday local program with informational elements from KWGN Denver; "Zoobillee Zoo" a Monday through Friday syndicated program currently running on Independent and public stations in 98 markets; and pro-social messages included

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in each "He-Man" syndicated program. It should be noted that the "For Kids Sake" campaign is featured on many Independent stations across the country and that "Zoobillee Zoo" was the recipient of an ACT award. Now, here is our tape.

Children's Program Commercial Practices

As the Subcommittee is aware, the FCC previously maintained guidelines regarding the commercial content of children's programming. Those guidelines required broadcasters to list and explain instances where programs originally designed for children 12 years old and under contained commercial material in excess of 9½ minutes per hour on weekends or 12 minutes per hour on weekdays. There was a very good reason why the commercial limit was higher on weekdays than on weekends. The Commission found that on weekend mornings, children constitute the most significant available television audience. By contrast the Commission found that on weekday mornings and afternoons there were substantial adult audience available. The Commission wanted to encourage broadcasters to seek to serve the children's audience and concluded that "the more substantial the difference between the permissible level of advertising on children's and adult programs during the week, the greater is the disincentive to program for children on weekdays." (50 FCC 2nd at 13, n.12.)

To the best of our knowledge, most, if not all, Independent stations complied with the FCC's children's advertising guidelines. In addition, most Independents subscribed to the voluntary industry code which included restrictions on the quantity, type and placement

of children's advertising. Unfortunately, the United States Department of Justice concluded that the broadcasters' voluntary limits on children's program commercial content constituted an illegal conspiracy in restraint of trade. Specifically, the Department alleged that the commercial limits in the NAB code represented an unlawful effort to restrict supply of commercial availabilities and hence drive up prices for these spots. The Department brought an anti-trust action against the NAB and its members. The result of that litigation was a judgment which prohibits the broadcasters from "adopting, maintaining, promulgating, publishing, distributing, enforcing, monitoring or otherwise requiring or suggesting adherence to, any code, rule, bylaw, guideline, standard or other provision limiting or restricting: (i) the quantity, length or placement of non-program material appearing on broadcast television."

Accordingly, the Independent broadcasters are prohibited from agreeing to limit the amount of commercial material in children's programs. In fact, INTV's counsel advised me to exercise extreme care in even asking our members informally about their commercial time standards and practices in preparation for this testimony. Nonetheless, on the basis of a few inquiries, I can report the following to this Subcommittee.

All of the stations I contacted continue to broadcast "separator devices" between program and commercial material in accordance with the FCC's continuing requirement in this regard. In the absence of FCC guidelines or voluntary codes, the amount of commercial material in children's programs quite predictably varies from station to station, and from group to group. Most stations and station groups

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have established their own policy guidelines in this area. For example, it is the policy of the Fox Television Station Group to air no more than 12 minutes of commercials in any clock hour of children's programming. Station WLVI in Boston has established the policy of running no more that 5½ minutes of commercial material in half hour animated children's programs. Station KSHB in Kansas City averages 10 minutes of commercials per hour in its children's programs.

Action for Children's Television has recently petitioned the FCC to reimpose it's old children's commercial guidelines. In our judgment, the data appended to the ACT petition, when properly interpreted, does not establish that there has been any egregious or wholesale increase in children's commercial time. The old FCC guidelines referred only to "commercial matter". The ACT analysis encompasses all "non-program" material including promotion announcements, public service announcements and news vignettes. It is unclear why ACT would equate product ads with PSAs and news briefs. In any event, an analysis of just the "product ads" column in Table 1 of the ACT filing suggests that commercial levels generally have remained within the Commission's former weekday guidelines. Based upon my inquiries, I believe that most Independent stations have been very responsible and have not abused their new freedom.

As I indicated earlier, it is not my purpose here this morning to argue what the Commission should or should not do with the issues remanded by the Court. However, I would like to point out a few relevant facts. First, except for locally produced programming, stations have absolutely no control over the length of the "program

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material" in any show. For example, when a station purchases a syndicated program which is 23 minutes in length, it must add seven minutes of "non-program material" in order to fill out a 30 minute half hour. Second, Independent stations are likely to garner substantial children's audiences with any programming that skews younger than the adult program on the network affiliate competition. This is true even if the Independent program is not "originally designed for children 12 years old and under". For example, off-network reruns of an all family situation comedy (such as "Family Ties") are likely to garner as large an audience as a cartoon program when scheduled opposite network news. Limiting the commercial content of programming designed for kids, establishes a strong marketplace disincentive against such programs relative to other programs which are likely to attract the same children's audience. In other words, if a station could run only 9½ minutes of advertising in an animated kids show but had no limit regarding commercial sales in sit-coms -- but both shows would attract about the same size kid's audience -- there would likely be less children's programming.

It should also be noted that in the past few years there has been a trend toward the phenomenon of so-called "barter" programming, particularly children's programming. When barter programs arrive at the stations they already include commercial announcements placed there by the program distributors. Undoubtedly, these barter spots have contributed to whatever commercial increases have occurred since the repeal of the Commission's guidelines. More recently, some stations have sought to reduce their clearance of barter programs and hence retain control over their commercial inventory.

Finally, there is no hiding from the fact that Independent stations are just beginning to emerge from a period of very difficult economic circumstances. The growth in the number of Independent stations, competition from other media, and a softening of the growth in advertising revenues all contributed to a squeeze on Independent station operating margins. In the past 18 months, 24 Independents have been forced into bankruptcy proceedings. In fact, the highest instance of commercial content cited in the ACT Petition occurred on a station which is now in bankruptcy. I hope government policies in the area of children's television will continue to balance marketplace realities with legitimate societal concerns.

The issue of inter-active children's programming is the newest source of controversy in this area. While the controversy may be new, the concept of inter-activity is not. From my own youth I can recall an inter-active program entitled "Winky Dink and You" produced on CBS by Jack Barry. In fact, I was the proud owner of a "Winky Dink" screen. When applied to the face of the television set, this screen allowed me to draw along with Winky Dink without leaving crayon marks all over our family television set. In addition to observing that inter-activity is not new, I would note that with the rise of VCRs, home video games, and home computers young viewers have come to expect inter-activity from their relationship with the television screen. In fact, the most popular gift under the Padden Christmas tree last year was a Japanese video game complete with an inter-active robot playing partner. There does not appear to be any public interest reason to single out broadcasters for exclusion from the latest inter-active technology. Remember, TV

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relies on a mass audience appeal -- unlike computers, cable, video games, VCR's, etc. Any program which, due to its inter-active nature, prices the show out of mass audience appeal, will not survive.

Other Media

Any analysis of the commercial children's television marketplace should not stop with broadcast television. Children increasingly rely upon other media including, in particular, cable television and home video cassettes for their television programming. Appended as Attachment No. 2 to my testimony is an article from Electronic Media entitled "Kid Show Producers Turn To Home Video". As described in this article, some programs orginally intended for syndication to TV stations are now being released through home video cassettes instead.

To place the contribution of Independent television in perspective, INTV prepared a chart (Attachment No. 3) comparing the children's programming of various other commercial media. I do not mean to ignore the enormously positive contributions of public TV in this area, but public TV has to be supported by tax dollars and tax deductible contributions.

As noted on Attachment No. 3, Independent television stations present substantial amounts of children's programming on both weekdays and weekends. Our programming varies in quality and is presented free of charge to consumers with commercial content.

Network affiliate stations present virtually no children's programming on weekdays, but do present substantial amounts on weekends.

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Like Independent station programming, the affiliate programming varies in quality and is presented free of charge with commercial content.

Cable television presents substantial amounts of children's programming on both weekdays and weekends. The children's programming of cable networks also varies in quality but includes 24 hour rock music videos. Consumers are charged for access to cable programming. Some children's program channels even require payment of special surcharges in addition to base cable fees. Most cable programming for children also includes commercial content.

Finally, the home video industry now supplies substantial amounts of children's programming. The quantity of home video programming for children is growing rapidly and varies in quality. Consumers are required to pay for access to home video cassettes and increasingly, commercial content is becoming a part of this medium.

The Independent stations' contribution to children's programming seems particularly noteworthy when viewed in the context of the performance of other media. Independent television is the only commercial medium that provides consumers with substantial amounts of free children's programming on both weekdays and weekends.

INTV Commissioned Study of Children's Televison Viewing

The ACT Petition to the FCC asserts generally that there is a failure of marketplace forces with regard to children's television programming. Essentially, ACT argues that children will continue to watch broadcast television irrespective of the quality of the

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programming or the level of commercialization. However, a review of objective television audience data suggests that ACT may be mistaken. There is evidence that children and/or parents may be capable of using marketplace mechanisms to register their approval or disapproval of television practices.

To state the matter simply, children's television audiences have experienced a serious decline. This decline is evident in a review of both aggregate figures and ratings for individual programs. For example, Attachment No. 4 contains an analysis of ratings for the total television audience of children age 2 to 11. This analysis provides year to year comparisons for the November, February and May sweep periods. This analysis, which encompasses both broadcast and cable viewing, illustrates marked declines in children's audiences in homes with VCRs and in homes without VCRs. In other words, the children's audience is down and it cannot be explained by a shift in viewing habits to cable or VCRs. Attachment No. 5 to my testimony contains an analysis of the decline in ratings for individual programs.

INTV and other industry observers have considered a number of possible explanations for this decline in children's viewing. One possible explanation of the data is that we broadcasters and cablecasters are misreading viewing preferences and that the children's marketplace is perfectly capable of registering its disapproval.

Because the children's audience is important to the business of Independent television (and not because of any claimed superior public interest commitment), INTV has commissioned a major study of children's television viewing practices and lifestyle changes. This research project is being conducted by M/E Marketing and Research

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Inc. of New York City. Attachment No. 6 to this testimony contains a copy of the proposal for this research program. Simply stated, our goal is to find out why children's viewing levels have dropped so that we can institute the changes likely to result in their restoration to former levels. In short, we are responding to the marketplace in our efforts to satisfy the demand for children's programming.

The research project will be undertaken by Mr. Marvin Schoenwald and Ms. Elaine Morgenstein, two researchers with extensive experience in child market research. The project will begin with a total of eight group focus sessions of children and parents. The child and parent panels will be interviewed separately for obvious reasons. The output of these sessions will be analyzed with an eye to generating specific hypotheses as to what may be causing viewing changes. The information learned in these sessions will be utilized in the construction of questionnaires for the second phase of the project. The focus group discussions will not be directed toward, or away from, any specific conclusions. If audiences are turning away from our stations because of specific program or commercial practices, we need to know that. Given the economic importance of children to most Independents, you can be sure our stations will respond if this is indeed the explanation.

The second phase of the research project will include one-on-one interviews with children coupled with self-administered questionnaires for the parents. This phase of the project will include a minimum sample of 500 parent/child pairs.

INTV has broken with time honored tradition in both business and government by disclosing this research project before the results

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are in. Our openness is intended as a demonstration of our sincere commitment to serve the viewing preferences of children and their parents. We will keep the Subcommittee staff and ACT apprised of the progress of this project and we welcome any input along the way.

In conclusion, Mr. Chairman, I want to reiterate that INTV does not have a closed mind as to any regulatory or legislative proposal. However, it is our hope that through the survey we have commissioned and other marketplace forces, we will be able to best serve the interests of our young viewers. Thank you very much.

ATTACHMENTS

1. Survey of Children's Programming on Independent TV Stations, February 1987

2. Electronic Media Article Regarding Home Video

3. Children's Television Comparative Media Performance

4. Aggregate Children's TV Ratings

5. Children's Program Ratings

6. INTV Research Project Outline

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Attachment No. 1

CHILDREN'S PROGRAMMING ON INDEPENDENT TELEVISION STATIONS
WEEKLY TOTALS-FEBRUARY, 1987

Market/Station	Hours of Children's Programs Monday-Friday	Weekend	Total Hours	Market Totals
1.New York-WNYW	30.0	3.5	33.5	
WPIX	25.0	3.0	28.0	
WWOR	7.5	0.0	7.5	69.0
2.Los Angeles-KTTV	30.0	1.5	31.5	
KTLA	5.0	2.5	7.5	
KHJ	0.0	0.0	0.0	
KCOP	30.0	3.0	33.0	72.0
3.Chicago-WFLD	27.5	2.5	30.0	
WGN	25.0	2.0	27.0	
WPWR	20.0	4.5	24.5	
WGBO	12.5	1.5	14.0	95.5
4.Philadelphia-WPHL	15.0	0.0	15.0	
WTAF	32.5	4.5	37.0	
WGBS	30.0	3.0	33.0	85.0
5.San Francisco-KOFY	0.0	0.0	0.0	
KBHK	22.5	4.0	26.5	
KTVU	25.0	3.0	28.0	
KICU	10.0	0.0	10.0	64.5
6.Boston-WFXT	27.5	5.0	32.5	
WHLL	0.0	0.0	0.0	
WSBK	30.0	2.0	32.0	
WLVI	35.0	8.5	43.5	108.0
7.Detroit-WXON	25.0	1.0	26.0	
WKBD	22.5	2.0	24.5	
WGPR	2.5	0.5	3.0	53.5
8.Dallas-KDAF	22.5	2.0	24.5	
KTVT	17.5	0.5	18.0	
KTXA	22.5	1.0	23.5	
KDFI	0.0	0.0	0.0	
KXTX	22.5	2.0	24.5	90.5
9.Washington-WTTG	25.0	2.0	27.0	
WDCA	30.0	2.5	32.5	
WFTY	10.0	0.5	10.5	70.0
10.Cleveland-WOIO	25.0	0.0	25.0	
WUAB	25.0	1.5	26.5	
WBNX	12.5	3.5	16.0	67.5

MARKETS 1-10 HOURS OF CHILDREN'S PROGRAMMING PER WEEK	775.5
NUMBER OF STATIONS	36.0
HOURS OF CHILDREN'S PROGRAMMING PER WEEK PER STATION	21.5

CHILDREN'S PROGRAMMING ON INDEPENDENT TELEVISION STATIONS
WEEKLY TOTALS-FEBRUARY, 1987

Market/Station	Hours of Children's Programs Monday-Friday	Weekend	Total Hours	Market Totals
30.Cincinnati-WXIX	27.5	3.0	30.5	
WIII	27.5	4.0	31.5	62.0
31.Nashville-WZTV	30.0	1.5	31.5	
WCAY	30.0	6.0	36.0	67.5
32.Charlotte-WCCB	25.0	1.0	26.0	
WHKY	17.5	1.0	18.5	44.5
33.New Orleans-WGNO	27.5	2.5	30.0	
WNOL	27.5	6.0	33.5	63.5
34.Greenville(SC)-WHNS	22.5	4.0	26.5	
WAXA	17.5	2.5	20.0	46.5
35.Buffalo-WUTV	30.0	9.0	39.0	39.0
36.Oklahoma City-KOKH	10.0	2.0	12.0	
KGMC	25.0	1.5	26.5	
KAUT	17.5	3.0	20.5	59.0
37.Columbus(OH)-WTTE	25.0	6.5	31.5	31.5
38.Raleigh-Durham-WLFL	37.5	5.0	42.5	
WKFT	25.0	3.0	28.0	
WFCT	20.0	3.0	23.0	93.5
39.Birmingham-WTTO	27.5	1.5	29.0	
WNAL/WDBB	25.0	4.5	29.5	58.5

MARKETS 30-39 HOURS OF CHILDREN'S PROGRAMMING PER WEEK	565.5
NUMBER OF STATIONS	20.0
HOURS OF CHILDREN'S PROGRAMMING PER WEEK PER STATION	28.3

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CHILDREN'S PROGRAMMING ON INDEPENDENT TELEVISION STATIONS
WEEKLY TOTALS-FEBRUARY, 1987

Market/Station	Hours of Children's Programs Monday-Friday	Weekend	Total Hours	Market Totals
80.Portland(ME)-WPXT	35.0	7.0	42.0	42.0
81.Tucson-KMSB	27.5	0.5	28.0	
KDTU	25.0	2.0	27.0	
KPOL	20.0	2.5	22.5	77.5
82.Chattanooga-WDSI	27.5	4.0	31.5	31.5
83.Springfield-KDEB	22.5	1.0	23.5	23.5
84.Jackson-WDBD	25.0	4.0	29.0	29.0
85.Johstown-WWCP	20.0	3.0	23.0	23.0
86.South Bend-WHHE	7.5	0.5	8.0	8.0
87.Tri-Cities-WETO	30.0	2.0	32.0	32.0
88.Youngstown-(None)				
89.Huntsville-WZDX	25.0	3.5	28.5	
WTRT	12.5	0.5	13.0	41.5

MARKETS 80-89 HOURS OF CHILDREN'S PROGRAMMING PER WEEK	308.0
NUMBER OF STATIONS	12.0
HOURS OF CHILDREN'S PROGRAMMING PER WEEK PER STATION	25.7

SAMPLE SUMMARY

Markets 1-10, 30-39, 80-89

HOURS OF CHILDREN'S PROGRAMMING PER WEEK	1649.0
NUMBER OF STATIONS	68.0
HOURS OF CHILDREN'S PROGRAMMING PER WEEK PER STATION	24.3

ELECTRONIC MEDIA August 31, 1987

Attachment No. 2

Captain Power and the Soldiers of Fortune

Kid show producers turn to home video

By RICHARD MAHLER
Los Angeles bureau chief

Toy makers and syndicators are turning to home video as a way out of the glut of children's programs on broadcast TV.

A flurry of made-for-video program announcements by major kid show producers was made at this month's Video Software Dealers Association convention in Las Vegas.

Additionally, the new video releases for children in some cases contain material that originally was intended for syndication to TV stations.

Indeed, many producers are putting their stake in home video, a move which has led to few new entrants in the already crowded field of syndicated kid shows.

The shift (from broadcast TV) is taking place because kids and their parents want to watch [illegible] their own schedules and without commercials, says Jerry Gottlieb, [illegible] executive officer of Lorimar Home Video.

Among companies aiding the crossover to video is [illegible] which is selling [illegible] Toys animated "Barbie and the [illegible]" and live-action [illegible] the Soldiers of Fortune.

"Barbie," [illegible] doll, is exclusive [illegible] MTS [illegible] postpone [illegible] version. [illegible] cated TV [illegible]

Lorimar [illegible] selling segments from [illegible]

(Continued on [illegible])

BEST COPY AVAILABLE

Attachment No. 3

CHILDREN'S TELEVISION

COMPARATIVE MEDIA PERFORMANCE

	Quantity	Quality	Cost to Consumers
INDEPENDENT TELEVISION	Substantial on Both Weekdays and Weekends	Varies	Free with Commericals
NETWORK AFFILIATES	Virtually None on Weekdays Substantial on Weekends	Varies	Free with Commercials
CABLE TELEVISION	Substantial on Both Weekdays and Weekends	Varies but Includes 24 Hour Rock Music Videos	Pay plus Commercials On Most Channels
VIDEO CASSETTES	Substantial and Growing Rapidly	Varies	Pay with Growing Commercialism

Attachment No. 4

MONDAY - FRIDAY
3 - 5 P.M.

KIDS 2-11 PUT's
("Persons Using Television")

Total U.S.	NOV 1985	NOV 1986
VCR	24.3	22.1
No VCR	27.9	26.4

	FEB 1986	FEB 1987
VCR	27.0	22.7
No VCR	32.2	28.0

	MAY 1986	MAY 1987
VCR	19.9	18.1
No VCR	24.1	21.8

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Attachment No. 5

Kids' Ratings Decline Again

An analysis by Petry of the Nielsen Cassandra report for May 1987 shows that the ratings for kids' animated programs continued their decline, slipping to an average 3.5 kids' rating from a May 1986 average of 4.1. The current figure, an average of 54 shows, represents a 15-percent decline from May '86.

Petry reports that 38 shows, or 70 percent, had returned from the previous May and, of those, 74 percent declined an average of 1.6 rating points, while 24 percent gained an average of 1 point. All nine shows that increased their ratings are of the so-called "soft" genre and eight of the top 10 shows are soft.

The following are kids' shows earning at least a 3 kids' rating in May '87.

NATIONAL KIDS RATING

Program	May '87	May '86	Change
Jetsons	7.2	6.2	+1.0
Smurfs	6.6	•	—
Jem	6.6	6.7	−0.1
Dennis the Menace	6.5	•	—
ThunderCats	6.5	8.9	−2.4
Scooby Doo	6.2	6.9	−0.7
Flintstones	6.0	5.3	+0.7
G.I. Joe	6.0	7.8	−1.8
Funtastic World	5.6	7.6	−2.0
My Little Pony	5.6	•	—
Transformers	5.5	8.3	−2.8
Tom & Jerry	5.4	5.1	+0.3
Woody Woodpecker	5.1	5.2	−0.1
Heathcliff	5.0	5.9	−0.9
He-Man	4.9	8.5	−3.6
Pink Panther	4.9	3.5	+1.4
Popeye	4.8	6.8	−2.0
Get Along Gang	4.7	•	—
Ghostbusters	4.7	•	—
Gumby	4.6	•	—
She-Ra	4.4	8.9	−4.5
Silverhawks	4.4	•	—
Inhumanoids	4.0	7.0	−3.0
Kidd Video	3.9	3.1	+0.8
Gobots	3.8	5.7	−1.9
Voltron	3.3	3.7	−0.4
Bionic Six	3.2	•	—
Spiderman	3.0	1.3	+1.7
Alvin	3.0	1.3	+1.7
Inspector Gadget	3.0	5.4	−2.4

Source: Cassandra •Did not air in May '86

Attachment No. 6

M/E
MARKETING & RESEARCH, INC.
Child Research Division

A PROPOSAL FOR A RESEARCH PROGRAM ON THE DYNAMICS OF CHILD TV VIEWING

Prepared For

INTV

May, 1987

10 East 21st Street
New York, NY 10010
212-529-3535

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INTRODUCTION

INTV member stations, which are now heavily committed to child programming, are deeply concerned about recent drops in reported viewing by children -- especially in the afternoon time segment.

While many hypotheses have surfaced as to why this drop has occurred and as to whether it reflects a short-term aberration or a long-term trend, little is really known about the current dynamics of child viewing and the reasons for changes in viewing behavior.

By better understanding the causes of viewing declines -- be it changes in lifestyles, time utilization, program loyalty, et.al. -- corrective actions can be taken via programming and scheduling.

Whithin the current environment, children are often more in control of viewing choices than in the past (at home alone more due to working parents, access to cable, VCR, etc.) and provided with more freedom and flexibility as to when they watch or what they watch.

Thus, to understand what is happening to child viewing, it is essential to talk to children, as well as parents, regarding their

needs, attitudes and behavior. Our extensive experience in interviewing children and parents has shown that not only can children

honestly and reliably answer questions about their viewing needs and behavior (providing appropriate techniques are used that take the child's stage of development and communication abilities into account) but that parents often have serious misconceptions about what their children do and like. However, to get the total picture of current TV viewing dynamics, we must also find out how and when the parent impacts on viewing decisions and viewing behavior.

In order to obtain actionable insights into what is happening and as to what can be done to provide INTV members with direction to assist in decisions as to child programming, we propose a multiphase research program among children 6-12 and their mothers.

METHOD

A. Overview

Prior to initiation of actual research, we suggest a developmental stage wherein existing data will be reviewed, a study team established and an initial set of hypotheses as to how children feel and act vis-a-vis TV viewing generated.

This developmental phase will be followed by a series of focus group sessions with children and mothers covering various ages and genders as well as varying opportunity to view network, independent and cable programming.

Based on what is learned in the developmental and qualitative stages, a full scale quantitative study will be initiated to validate hypotheses and suggest potential solutions.

Upon completion of all phases, data will be synthesized and used, in combination with insights into how and why children act as they do from our experience, to create specific recommendations and guidelines for INTV members.

B. Developmental Stage

Key to this stage is establishing a research study team comprising members from INTV, member stations and M/E Marketing & Research. This team will monitor the program and help insure that it progresses on an actionable track.

For M/E, the study team will be headed by Marvin Schoenwald, President and Elaine Morgenstein, Executive Vice President.

Mr. Schoenwald has had over twenty years experience in marketing research, with management positions at Kenyon & Eckhardt, Grey Advertising, General Foods, Squibb Beach-Nut and Gilbert Youth Research. Prior to forming M/E, he was president of MPI Marketing Research and Managing Director of Child Research Services. He is a pioneer in psychographics and strategic research and helped introduce new sensory testing techniques to consumer research.

Ms. Morgenstein has had over fifteen years of advertising and marketing research experience at Y&R, McCann Erickson, Grey Advertising, MPI and Geers Gross. Prior to helping form M/E, she was V.P./Director of Child Research Service.

C. Hypotheses

To provide an indication of some areas that might be addressed qualitatively and/or quantitatively, we've listed a few initial thoughts and questions:

- How have changes in pre-school programs, lower grade curriculums, educational toys, videocassettes, etc. affected child needs and attitudes vis-a-vis TV viewing?

- Are children being exposed to a wider variety of audio/visual options earlier in life and being given more direct control at an earlier age? Does this intense media exposure lead to earlier graduation from kid programming, greater selectivity, media burnout?

- Are changes in society impacting viewing -- working mothers, single parent households, affluence, greater freedom at earlier ages, et. al.?

- What role is played by sibling emulation, parental pressures, school pressures coming earlier, changing role models due to less time with parents?

- Are current programs truly appealing to child fantasy needs or are they adult translations of these needs?

- Are some current programming concepts (in terms of animation versus live action, content, etc.) antiquated; is there an earlier move up to more adult programming

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that impacts typical child day parts; is some programming not contemporary enough or "adult" enough to satisfy children?

- What is the impact of the wide range of options competing for time (VCR's, TV, cable, home computers, electronic games and toys, athletics, homework, books, and so on)?

- How much of the problem is in effect poor reporting by kids and moms, how much is caused by movement of kids to prime and fringe time?

- What do kids like/want in programming and how does this match with what is available?

- Are there major differences by age of child and, if so, is this a key to changes in viewing behavior?

D. Qualitative Study

In this phase, a total of 8 group sessions will be completed with children and mothers:

- Two with children 7-8 whose mothers do not work full-time (one with boys, one with girls);

- One with boys 7-8 whose mothers work full-time;

- Two with children 10-11 with full-time working mothers (one boys, one girls);

- One with girls 10-11 whose mothers do not work full-time;

- One with full-time working mothers with children 6-12;

- One with mothers of children 6-12 who do not work full-time.

In addition to the above, we will establish quotas to insure representation of a range of demographic variables (age, income, etc.) as well as of households with and without cable TV.

The above group composition will allow us to speak to younger and older children of each gender as well as parents while keeping the total number of groups at a reasonable level.

Our experience shows the need to separate children in groups by gender and that sessions are most productive when the age span of the panelists is within two years.

Sessions will be divided amongst two markets.

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All sessions will be moderated by an executive of M/E Marketing & Research, Inc. utilizing a topic guide developed in conjunction with the study team.

Sessions will be audiotaped. Should there be need, videotaping can also be included.

While topic areas will depend on further discussion, we will likely be zeroing in on types of programming of growing or diminishing appeal (and why), viewing behavior at key times of the day, involvement with cable and VCR, the child role, behavior and needs in individual versus family viewing situations, the relative influence of child and parent on decisions and the role of other activities/lifestyle in affecting viewing behavior.

The groups will be scheduled in a sequential manner, to allow learning from the first sessions to be incorporated in the remaining ones.

Output of these sessions will be analyzed with an eye to generating specific hypotheses as to what may be causing viewing changes and to helping develop questioning procedures for future stages of research.

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Results will be presented at a work session of the INTV committee to allow for maximum interchange of ideas. This will be followed by a summary document for use as a basis for the next steps.

E. Quantitative Study

In this phase, we will attempt to validate the hypotheses generated in earlier stages and obtain a better fix on not only what elements are impacting viewing but also the relative effect of each. We will also use these data to help formulate recommendations for creating a better environment for child viewing and guidelines to help in programming and program selection/development.

The vehicle for this study, will be personal one-on-one interviews with children coupled with self-administered questionnaires to their moms -- to be completed in a separate room of the test facility while we interview the child.

It is essential that we interview the child without the mother present to avoid "right" answers aimed at pleasing the parent. Further, given the limited verbal and written skills of younger children, a face-to-face situation, using specially designed questionnaires and visual cues, provides a much more effective and reliable approach than a telephone or mail interview.

Moms and children will be screened and recruited at high traffic malls in 10-12 cities selected to provide coverage of various competitive environments, as well as geographic areas and larger versus smaller ADI's. Qualified pairs will be asked to come to a central testing facility for a 30-minute interview and offered a cash incentive for participation.

Data on viewing behavior, demography and activity participation will be obtained to help us in analyzing attitudes, needs, perceptions and behaviors by key lifestyles, socio-economic and TV usage subgroups.

Specific questions will be developed for adult and child to help measure such things as the roles of family interactions, types of programming, viewing alternatives, boredom, changing social/life/cultural styles, programming wear out, et.al., on changes in viewing and the degree to which these are negatively impacting specific dayparts (after school, Saturday mornings, weekday mornings, etc.) and specific groups (by age/gender/type of competitive environment, mom participation, etc.).

Sample size should be sufficient to analyze by key age/gender groups, type of competitive environment as well as any other subgroup of interest. Thus, we suggest a minimum sample of 500 mother/child pairs.

Both bi-variate (tabulating specific subgroups) and multi-variate statistical techniques (such as quadrant analysis, perceptual maps, et.al.) will be used to analyze and interpret the data in an actionable manner; we will be looking not only at what happened, but why it happened and how it can be changed.

Mr. MARKEY. Our final witness of the first panel is Mr. John Weems, who is the Vice President for Entertainment of Mattel, Incorporated, located in Hawthorne, California.

Thank you very much, Mr. Weems. Whenever you feel comfortable, please begin your testimony.

STATEMENT OF JOHN WEEMS

Mr. WEEMS. Thank you. Good morning, Mr. Chairman, members of the subcommittee, and distinguished celebrity guests.

I am John Weems, the Vice President of Entertainment for Mattel, Incorporated.

Mattel appreciates the opportunity to appear before you to discuss a most promising development in broadcasting. Beginning this weekend, we will help inaugurate interactive television with an innovative program, Captain Power and the Soldiers of the Future.

Captain Power is a breakthrough television show in several ways. It is the first television show which enables viewers to actually interact with the TV set in their home. The program is a 30 minute action adventure series designed for viewing by the entire family. Because it is a live action, prime time quality show, it is more like a Star Trek or a Battlestar Galactica than a typical Saturday morning animated show for young children.

It will air once a week, on weekends, in time periods that attract an audience composition of older children, teenagers and adults. As with other television productions with which Mattel has been associated, our primary objective is to maximize the entertainment value of our program for the largest possible number of viewers.

It is axiomatic that television programs succeed or fail based on their ability to attract and sustain a broad audience. To do so, they must entertain. To ensure that Captain Power stands on its own, each story is entirely independent of the toy line, no mention of the toy is made during the program, no advertising for the toy line appears in or adjacent to the program, and the interactive segments will be brief, generally less than 4 minutes total in each weekly episode.

Furthermore, we are not alone in our belief that Captain Power has substantial entertainment value. Ninety-six television stations reaching 81 percent of the country have contracted to air Captain Power.

These stations will not receive a share of any merchandising revenues. Rather, they have chosen to clear this show in their respective markets because they believe in the audience appeal of the concept. Thus, the program's value is by no means limited to the viewers who own the toys.

At the same time, the interactive feature allows those who do own the product to enjoy a new dimension in television viewing. The retail cost of the interactive powerjet is between $30 and $40, not $250 as has been reported by some sources.

Let me explain a little bit about what interactive television really is and how it works on the Captain Power Show. Visual signals are integrated into certain character designs and special effects as they appear in the program. When the signals are present,

players in the home can aim an interactive powerjet at targets on the screen and score points for hits.

Since they are integral to the story itself, these encoded signals will not detract from program content. Incidentally and importantly, the only targets are robot characters or jets, not humans.

The success of the Captain Power toy line is not dependent on the television show. The toys can work at any time. In addition to the television show, they will also interact with video cassettes and with each other.

I think that I can best demonstrate exactly what I mean by showing you a brief segment of footage from the first episode. At the appropriate point in the tape, I will point out the interactive targets and I will attempt to hit them myself. But I must caution you, I am not particularly good at this.

Mr. MARKEY. Mr. Weems. are you going to use the interactive toy with the program while it is running?

Mr. WEEMS. Yes.

Mr. MARKEY. OK, fine.

[Videotape presentation.]

Mr. WEEMS. There you have the first demonstration of interactive television, and perhaps one of the worst examples of marksmanship that I have ever been able to demonstrate. But you see how many points we did get. When there are too much light, like the television lights, it is not sensitive. It needs to be in normal room light. I did get five points, though.

Anyway, I hope that you agree that Captain Power is an exciting and entertaining new television concept that will appeal to the entire family.

Furthermore, it is important to recognize that this program is only the first step in the development of interactive television.

There are many other innovative uses for the technology, including a whole range of educational programming for children and adults, and other interactive toys and games.

Mattel currently is working on various interactive projects and looks forward to playing a key role in the expansion of this exciting technology in the future.

Thank you for giving me the opportunity to share Mattel's views with you.

[The prepared statement of Mr. Weems follows:]

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Statement of John Weems
Before the
Subcommittee on Telecommunications and Finance
September 15, 1987

Good morning, I am John Weems, the Vice President of Entertainment for Mattel, Inc. Mattel was founded in 1945 and has grown to be a world leader in the design, development, manufacture, distribution and marketing of toys. In addition, through its Entertainment Department, the Company is involved in licensing activities and a wide range of entertainment ventures worldwide, including television programming, movies, video cassettes, records, children's magazines and arena shows.

Mattel appreciates the opportunity to appear before you to discuss a most promising development in broadcasting. This fall, we will be contributing to the inauguration of interactive television with an innovative program, "Captain Power and the Soldiers of the Future," created and produced by Landmark Entertainment Group and distributed by MTS Entertainment, a division of Mattel. "Captain Power," which debuts this weekend nationwide, is the first live-action television show which enables viewers to actually interact with the TV set in their home. The program will deliver great entertainment value to American families and makes an important contribution to the development of interactive television technology.

Let me begin by giving you some background on the program. "Captain Power" is a breakthrough television show in several ways. It is a 30-minute action/adventure series designed for viewing by the entire family, not just children. It will air once a week, on weekends, in time periods that attract an audience of older children, teenagers and adults.

Because it is a live-action prime-time quality show, it is more like "Star Trek" or "Battlestar Galactica" than a typical Saturday morning animated show for young children. In addition to the unique interactive elements, "Captain Power" will introduce to broadcast audiences sophisticated computer-generated images that, to date, have only been seen in theatrical motion pictures.

Like many other television shows, "Captain Power" has inspired various products that are based on the characters featured in the program and their accessories. However, as has been the case with other television productions with which Mattel has been associated, our primary objective is to maximize the entertainment value of our program for the largest possible number of viewers. It is axiomatic that television programs succeed or fail based on their ability to attract and sustain a broad audience. To do so, they must entertain. To ensure that "Captain Power" stands on its own, each story is entirely independent of the toy line, no mention of the toys is made during the program, and the

interactive segments will be brief (generally less than four minutes total in each weekly episode).

Positive reactions from those who have seen the show indicate we have been successful in creating a program with substantial entertainment value. Ninety-six television stations reaching 81% of the country have contracted to air "Captain Power." It is important to note that these stations will not receive a share of any merchandising revenues. Rather, they have chosen to clear this show in their respective markets because they believe in the audience appeal of the concept. Obviously, a program that attracted only viewers who owned the toys would not stay on the air because the number of people who will buy the toys does not even approach the number needed to support a successful television series. For this reason, the program has been designed to appeal to the much broader audience of older children, teenagers and adults.

At the same time, the interactive feature allows those who do own the product to enjoy a new dimension in television viewing. Let me explain what interactive television really is and how it works in the "Captain Power" show.

Visual signals are integrated into certain character designs and special effects as they appear in the program. When the signals are present, players in the home can aim an interactive powerjet at "targets" on the screen and score points for "hits." Since they are integral to the story

itself, these encoded signals will not detract from program content. Incidentally, the only targets are robot characters, or jets, and not humans.

Let me demonstrate exactly what I mean by showing you a brief segment of footage concerning the first episode. The first few minutes of this segment will portray the program's storyline; the last minutes or so involves interaction between the product and the television screen.

(Show tape and demonstrate jets.)

I hope you agree that "Captain Power" is an exciting and entertaining new television concept that will appeal to the entire family. We should emphasize that in addition to using the powerjets in conjunction with the "Captain Power" television show, they may also be used by aiming at powerjets operated by other players or with video cassettes that will offer 15 minutes of pure interactive playing time. By the way, it should be noted that the "Captain Power" jets will sell for $30-40, not $250 as reported by some sources.

Because of its independent entertainment value, "Captain Power" cannot reasonably be considered a "program-length commercial." Its principal purpose is not to sell toys, but rather to entertain an all-family audience. The program does not mention the toys, nor are the toys themselves utilized in the show. Furthermore, as a matter of company policy, the "Captain Power" toy line will not be advertised in or adjacent to the "Captain Power" program.

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In summary, we believe that "Captain Power" is an innovative new program that will intrigue and entertain family viewers this fall. By using live-action and introducing top-quality computer-generated images to television audiences, this show will be very special. By adding interactivity, it will be unique.

But is exceedingly important to recognize that this program is only the first step in the development of interactive television, which we feel is the most exciting technological advance in television in many years. There are many other innovative uses for the technology, including a whole range of educational programming for children and adults, and other interactive toys and games. Mattel currently is working on various interactive projects and looks forward to playing a key role in the expansion of interactive technology in the future. However, for the present, it is most important to generate market familiarity and acceptance of this new technology. Accordingly, we hope the Subcommittee will recognize the long-term benefits that viewers will receive from this breakthrough which is being introduced through "Captain Power."

Thank you for giving me the opportunity to share Mattel's views with you.

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Mr. MARKEY. Thank you, Mr. Weems, very much.

That ends the opening statements of the witnesses and now we will turn to questions from the subcommittee.

The Chair recognizes itself for an opening round of questions.

Ms. Charren, what is wrong with that?

Ms. CHARREN. Well, watching the demonstration, I am not sure we should get it for interactivity, maybe for deceptive advertising.

Mr. MARKEY. Well, tell us——

Ms. CHARREN. That was a joke.

Mr. MARKEY. Nobody else laughed, either, so I don't feel that bad.

But the concern that we have is exploitation of children and the affect of commercials in terms of them being somehow or other convinced that they have to buy these toys.

Tell us, just in terms of the interactivity itself, do you have any problem with programs of that nature?

Ms. CHARREN. The problem that I have, that ACT has, that people who worry about this new signal that the FCC let Mattel stick into its own program to react to its own toys, is that it is a further connection of that program and product that was started with the program length commercial problem.

But at least with those shows, when you look at the program, it is the same program whether you have the toy or not.

Now, it is not a fair world and plenty of kids are watching G.I. Joe without having the G.I. Joe toy, and that is the way the world works.

We think the program is a different kind of problem there.

Here, the program actually is designed to work with this product, and it isn't as if we are not going to let every child in America know that, with a set of ads that are going to show the kids how the program works if you have the product.

Now, you don't have to be very bright to figure out that every time the thing shutters, that it wiggles, that there was an opportunity to shoot at it.

Now, I am not sure that every program is going to work that way, but it has to be obvious to the kids with the toys when you do something, and I am sure it will be obvious to the kids without the toys when you do something.

In any case, we think that it is an equity problem. This is a system that is licensed to serve the public interest and it has to serve children equally.

We think that G.I. Joe really serves children equally as a commercial, just like any other commercial does. I mean, we think of it as a commercial. The McDonald's commercial doesn't give you the meal while you are watching it, either.

But the program, this program really is a different way of doing television.

For the FCC to say to Mattel, sure, go ahead, make it work with your proprietary product, and when we have every show working that way, then we will understand that the kids' television at least, when you watch it, you have to go buy something to make it really a terrific experience.

Well, think of this working with public television. Think of public broadcasting sitting there and saying that you can really

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educate kids with this gimmick, and there is no question that you can. I mean, I don't feel particularly sorry for the kids who end up without Mattel's gun so they don't shoot back at the set. It looks like a Gary Trudeau cartoon, to watch that happening.

But what about the kids who don't have the gimmick that makes the public broadcasting educational programs really work?

That is not a reasonable way to deal with over-the-air television unless you have a TV set that comes with the mouse that turns the set into a computer, and one of these days that is going to happen.

There is no question that television will be more interactive in the future. But now is not the time to take children's programs and turn them into things that you have to buy products to watch.

We don't have to buy a product to find out who is sleeping with whom on Dallas.

Mr. MARKEY. Mr. Weems, what do you have to say about Ms. Charren?

Mr. WEEMS. Well, let me confess that I am very partial to this show. I think that it has every earmark of being a very, very popular show.

But a couple of points that I do want to make, particularly about Captain Power.

I hope everyone will agree that you do not have to have the powerjet to enjoy the show. I did not, as everyone could see, change the outcome here. If they were counting on me, Captain Power would have been in a lot of trouble.

But the important thing is, on this show, particularly, this is an all family show and has been designed and written to appeal to a much broader audience.

As a matter of fact, if we were only counting on the people who bought the toy line to enjoy the show, I am sure that the television stations will not keep it on the air long because that will always only be a small fraction of the audience.

Mr. MARKEY. So, what percentage of the audience do you want to have using these toys? What would be an acceptable kind of minimal goal for your company or any toy company that would seek to engage in this kind of interactive advertising?

Mr. WEEMS. I am very proud of being the first interactive television show. I hope as many people as possible will have the chance to interact with it. I think it is a great show that stands entirely on its own.

I think it is another dimension in television, if you are able to interact with it.

Mr. MARKEY. Are we likely, though, to see a point reached where it is almost impossible to have a children's television program or a children's toy that is not linked in a way in which they are being marketed to children in this country by the relationship that children establish with them through a television program?

Mr. WEEMS. I don't think so. I think that—particularly, again, if we are going to talk specifically Captain Power, the television show must stand on its own.

Although we are all amazed to see interactive television first demonstrated, very quickly this will be old hat. If the show doesn't have enduring entertainment value, it is not going to continue to sustain an audience.

Mr. MARKEY. Ms. Charren, do you want to block television from becoming interactive?

Ms. CHARREN. I certainly don't. I think technology is very exciting. I love the media lab at MIT, where there are all kinds of things happening that give you a feel for what the future is going to be about. And I really do think that our TV sets are going to turn into interactive pieces of equipment one of these days, just as I think they are going to be high definition television, and just as I think there is going to be a new world in cable which isn't here yet. It may not be cable as we know it.

But there is a tremendous amount of technology that is going to change the way the world works.

To start saying that for Mattel to get permission for a program that it makes, that it is making a toy that is part of what happens on that program, you know, that particular program, if it didn't have the interactivity it would be like G.I. Joe. You could make all those characters and you could sell them, and then Captain Power would come with its toy line. And we think that is no good either, because of the toy line.

We are not talking about any of the content on these shows. I mean, I happen to think it is sort of nauseating personally that we have, with children's programming based on toys, the most sexist moments in television. But that is my opinion.

They talk about in the trade magazine girl programs and boy programs, girl toys and boy toys. Those are the kinds of things that people who are worrying about content get very upset about.

We are talking about a structural problem in how the toy industry works and the marketplace barrier to entry for shows that are not designed by toy companies to sell toys.

Now, Hasbro refused to come. It may be because they spoke to TV Guide. This is a reprint of an article on June 13, and it could be that Robert Hubbell, who is Hasbro's vice president for investor relations, got into trouble when he was so frank with TV Guide, that they said—and let me read this to you. It might make up for the fact that they are not here.

The writer, who is David Diamond, said—when I get to the quote, I will say quote—Hasbro, Inc.—well, here, let's read the whole paragraph.

"Since He-Man first muscled its way"—see, I think that is why Mattel made this program. Mattel is not in the business of making television programs. It is in the business of selling toys. And it may not—I mean, they can say, look, that is Hasbro, lady, and don't damn us with their problem. But let me tell you what Hasbro's problem is, and certainly if Mattel is successful with this, and maybe eventually everything will work better, then Hasbro is going to do it, too. That is how these 75 programs happened, or 73.

Since He-Man first muscled his way onto the television screen, critics have charged that toy linked showed are merely program length commercials and that toy companies don't always argue the point. How can they, when the programs are sometimes financed, at least in part, out of a toy manufacturer's marketing budget.

Hasbro, Inc., for instance, subsidized the cost of producing G.I. Joe, Jem, The Transformers, three of the top kids' syndicated shows. The money came from Hasbro's $217 million marketing budget. And Robert Hubbell, Hasbro's vice president for investor relations, candidly admits that unlike most TV programs, their toy based shows themselves aren't expected to make money.

The show is a part of the overall marketing effort, he says. The point is, they are not designed to produce revenues per se.

Now, we think that is broadcasting working wrong. It is doing it mostly for children because children love commercial speech.

You wouldn't have a program that is Chevrolet, where the whole thing was about why it is wonderful riding around in this family Chevrolet, where the word Chevrolet appeared all through the program, where the kids said, gee, I love this little logo or whatever it is on the front of the thing, the way the wheels go. Can you imagine a series like that for adults?

The Telephone Hour had in its title, telephone. I mean, after all, we did have programs in the past before spot advertising where the advertiser had the program. But telephones didn't sing on that program. People sang. You know, they did their ads in the 30 second messages.

Now, this just takes what content is supposed to be and turns it inside out.

You know, it was nice to see the little bit that Preston brought of what is happening that isn't based on this kind of stuff, and a lot of that was those little one, 2-minute bits that are interrupting programming or are at the end of some shows. And that is wonderful. But that doesn't a TV schedule make.

What we have now is a library, a video library that is a collection of manufacturers' catalogs. Now, if the library worked like that, the print library, kids' hair wouldn't fall out when they walk in, you know. They could learn to read from manufacturers' catalogs. You can learn to read from a cereal box. And it had beautiful four color pictures, and a good librarian could talk the manufacturer into adding the do-goody message, don't go with strangers, drink your orange juice, at the end of the catalog, right. And what would we do to that librarian? We would get rid of him or her, because that is not what editorial speech is supposed to be.

Mr. MARKEY. Thank you.

My time has expired. The Chair recognizes the gentleman from Washington State, Mr. Swift.

Mr. SWIFT. Thank you, Mr. Chairman.

Does the television industry really want to teach an entire generation of Americans to shoot at television sets? NAB should probably set up a study committee on that.

This new program is a family oriented thing, and all the rest, and the commercials are kind of tangential to it, and so forth.

You know, I have been there. I have been there when the question was raised, you are really running Untouchables at 4 p.m. in the afternoon, and the answer literally was, we are aiming for the adult audience. [Gestures.]

Now, what I didn't say was what came right after it was—I don't know how you put that in the record. But inside the station that was doing it, we knew that was BS. But it was the answer that could be and was given publicly.

And one is in the position of saying, either do you really believe that, or just simply asserting that the other person is lying to you through their teeth. You are looking into somebody else's mind. And most of us, I guess, placed in that position, would rather give

people the benefit of the doubt and think of them as an idiot, rather than a rapscallion.

I can remember when the issue was whether we should eliminate all commercials from children's programming, which I thought was one of the most idiotic ideas the public interest people ever came up with. How in the world, in our system of television, the commercially based television system we have in this country, you can expect and demand better quality children's television and then take away the very ways that they raise the revenue to pay for it. I thought that was an idiotic concept. We have come full circle.

But today Peggy Charren isn't here saying no commercials, she is sitting here saying, can we have some programs in the commercials. Can we have some program content in the commercial? Full circle.

Where in the world is some kind of a rational center in this whole thing? We don't do this with adult programs. It wouldn't work.

We are doing it with children's programs, and I don't care what rationale you present publicly, somebody, somewhere, in some board room, is giving a wink and a nudge.

I don't know what questions to ask that won't bring more of the party line that I can either accept and think you are a fool or I can think you are a scoundrel. But there is no way to break through that.

All I am saying, I guess, is, ultimately, if the industry, the broadcasting industry and the toy industry continue to pursue this, you will finally, finally get people mad enough to do something about it, and we usually overreact.

In the meantime, I suppose you are just going to carry on.

It is very troublesome to me, because it is very hard for us to do anything precise. That is the reason you can get away with this, because the solution does not readily suggest itself.

Mr. PADDEN. Mr. Swift——

Mr. SWIFT. Yes, that is obviously a rambling diatribe, and I will stop and let everybody respond, and then I will yield my time.

Mr. PADDEN. Well, if I could, I would like to respond to that, because I think there are a lot of broadcasters that honestly share some of your concerns and some of Ms. Charren's concerns.

Our stations are not in the business of giving away ½ hour of commercial time to anybody. That is not how we make our money. That is not how we stay in business. And if our stations honestly thought that they were giving away ½ hour of commercial material, they would take it off immediately, because we are in the business of selling spot advertisements.

Now, here is the problem: You say we are going to not run He-Man toy ads in He-Man. Every broadcaster that I know says that. They will not run commercials related to the program in the program. And we have separator devices. And we are only going to run programs that work, that people want to see, because otherwise you go out of business.

But how do you write a rule or even a station policy that says you may not have in the program content any references to products that people can sell, if there is no way that you can consistently apply that kind of a policy and come out with anything that

makes any sense? You lose Peanuts, you lose all of Disney, you lose all of Sesame Street, you lose NFL football, because they sell tickets to those games.

Mr. SWIFT. Oh, Preston, come on. Particularly, as station policy, you can enforce something like that. Now, when you write a law, you can't. But station policy, you can sit there and say, come on, that example is an incidental use of Peanuts and that one is advertising, and it is that way because I am the station manager and I said so. Nobody would take you to court about that.

Mr. PADDEN. But I mean ½ hour Peanuts show which run all the time and they are very popular, there is as much Peanuts licensing and merchandising as there is of He-Man merchandising and licensing.

It is unclear to us how you would draw the line. Sesame Street, there——

Mr. SWIFT. It could be asked, among other things, which came first, the Peanuts or the product.

Mr. PADDEN. I am not sure that makes any difference, when the product is sitting on the shelf in the store and my kid goes in. He doesn't know. He has no way of knowing which came first.

Mr. SWIFT. Preston, I will say it again. You know, when it comes to us writing a law or, even for that matter, to the FCC writing rules, the points you raise are extremely crucial, because you can be taken to court and you have got those kind of problems. But for station management to make a policy and enforce it because they are the management, that is possible, and it is whatever your conscience says should go on the air or not, and you don't have to buy all the gobble-de-gook they feed you, the rationale and all kind of crap. You don't have to buy that.

Mr. PADDEN. That is exactly why our guys have directed us to commence the study, the outline of which is attached to my testimony.

Mr. SWIFT. But your problem is that if you don't take that syndicated program, your competitor two channels down will, and that puts you in a tough disadvantage. So, there is a difficulty with the industry policing itself in that respect.

Mr. PADDEN. But there is another problem. We are getting a clear signal from the marketplace that kid audiences are down. And not in any way related to this hearing or the court remand to the FCC proceeding or anything else, our industry has decided to commission a survey of changes in children's television viewing habits, why are they not watching as much as they were.

And if we find that it is because of a concern like Peggy's, I think you are going to find a lot of intelligent broadcasters trying something different to get back that lost audience.

We are making a very sincere effort to determine what the marketplace wants. And it is driven by a lot of the same concerns that you have expressed. And we have offered to share the results of that survey.

You know, we are leading with our chin a little bit in disclosing this survey to the subcommittee prior to having the results in.

Mr. MARKEY. Ms. Charren, do you want to respond?

Ms. CHARREN. Just a small point. I agree very much with Representative Swift and think back to the days when the FCC told

Mattel and ABC they couldn't do a program called Hot Wheels. That was the Commission saying, hey, that violates that separation, that difference, you have gone over the line.

Nobody said that about the Shirley Temple dolls that grew out of Shirley Temple movies. Nobody said that about the Jetson lunch boxes that grew from a Jetson program. I probably bought one of those for my children, even though I really don't love the Jetsons.

But that is capitalism working.

But when the program is designed to sell the toy, everybody knows it. The trade magazines are full of—the first two pages of my printed testimony are quotes that you would think these characters would have had sense not to say out loud, because they are so damning.

Mr. MARKEY. The gentleman's time has expired.

The Chair recognizes the gentleman from Tennessee, Mr. Cooper.

Mr. COOPER. Thank you, Mr. Chairman. I will be brief.

Mr. Weems, when you began speaking you also said hello to the distinguished guests in the room, or celebrities, something like that. Were you referring to these toys up here on the front row?

Mr. WEEMS. Yes. Even though none are Mattel toys, this is the business I am in.

Mr. COOPER. Is it customary in the business to refer to Rambo and Care Bears and things like that as distinguished guests whenever you appear?

Mr. MARKEY. If the gentleman from Tennessee would yield, I introduced them as distinguished guests at the beginning of the hearing.

Mr. COOPER. Oh, if the chairman does it, then it is OK.

Mr. MARKEY. As a matter of fact, we requested G.I. Joe to testify, but he wasn't available today. So, just so the gentleman will know, we sort of started off on a slightly——

Mr. WEEMS. But I can assure you, in Hawthorne, California Barbie is a celebrity, no question about it.

Mr. COOPER. That is interesting.

Some details about your show. When you shoot the TV screen, you cannot change the outcome of the show, right?

Mr. WEEMS. No. Else we would have lost.

Mr. COOPER. The only way that you, in a sense, get points is by the number of targets that you hit, and that registers on your airplane there, right?

Mr. WEEMS. Right. And you can lose points, as well.

Mr. COOPER. Is there a policy in Mattel or in any other toy company to design these airplanes so that they do not resemble guns and could be confused, say, by a police officer if a kid happened to have one in his pocket walking down the street?

Mr. WEEMS. Mattel is a socially responsible toy company and it has been very, very troubling to us over the past 10 years—if you will look back through Mattel catalogs, since the Vietnam war you will that there have not been guns manufactured by Mattel.

Unfortunately, society itself seems to be moving back in this direction.

It has never been anything more than an informal company policy, but as you have pointed out, it seems that it is moving more in this direction, and we regret that. We think it is unfortunate.

Mr. COOPER. You mean, the tendency is to design more toys that look like guns?

Mr. WEEMS. Yes. Not from Mattel, but from our competitors, yes.

Mr. COOPER. And Mattel has an informal policy that it does not like to design toys that look like guns?

Mr. WEEMS. Exactly.

Mr. COOPER. But Mattel's resolve is weakening?

Mr. WEEMS. It appears that the entire environment in which Mattel operates resolve is weakening.

Mr. COOPER. I am just curious about Mattel now. Is your informal policy in danger of slipping or deteriorating?

Mr. WEEMS. We are not immune to the competitive pressures of the marketplace. Obviously, this is not something we wish to do.

Mr. COOPER. Is your informal policy written down anywhere?

Mr. WEEMS. No, this is not something we have written down. This is something that is a management decision at Mattel.

Mr. COOPER. But for the time being, at least, you anticipate that these interactive toys would not resemble guns?

Mr. WEEMS. Well, it is a powerjet. It is not a gun. It is not supposed to resemble a gun.

Mr. COOPER. Some of the people or the robots on TV looked like they were carrying guns, weren't they? Didn't Captain Power, didn't he have something that looked like a gun in his hand?

Mr. WEEMS. Yes. And I would like to talk a little bit about the origin of the Captain Power show, because it appears that it is something that is important.

The Captain Power concept was not created by Mattel. It was created by a company called Landmark Entertainment. This company approached Mattel with an idea for a live action show that uses computer generated images like you have seen in movies before but never in television.

We had been internally developing the interactive technology. We thought that they were a good marriage, between the two, but this was not something that the show itself was created after the technology. The show was created independently.

Mr. COOPER. Is Mattel, as a company, involved with any sort of educational children's programming? Does it help subsidize Sesame Street or anything like that?

Mr. WEEMS. Mattel, from time to time over the years, has done many different educational types of programs. Right now we are in development on some, but we are not currently sponsoring educational programming.

Mr. COOPER. Finally, do you have kids? And if so, do they watch these shows?

Mr. WEEMS. No, I do not have kids. But believe me, many people at Mattel have kids and yes, they do watch the shows.

Mr. COOPER. And they are encouraged by their Mattel parents to watch the shows?

Mr. WEEMS. I think they are loyal supporters of Mattel. So, I think they do it on their own.

Mr. COOPER. Thank you, Mr. Chairman.

Mr. MARKEY. The gentleman's time has expired.

The Chair recognizes the gentleman from Texas, Mr. Bryant.

Mr. BRYANT. Thank you.

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I wanted to be clear on one thing at the outset. Mr. Weems, do you agree that program length commercials are bad? Are we arguing that point or not?

Mr. WEEMS. Well, we disagree that the programming that we have created is a program length commercial.

Mr. BRYANT. I understand that. But do you believe program length commercials are bad?

Mr. WEEMS. If something were to interweave between the programming content and the toy line itself, yes, we would believe that was bad.

Mr. BRYANT. OK. Mr. Padden, do you believe that they are bad? Or what is the position of your organization on that?

Mr. PADDEN. Our organization doesn't have a position. My response to that would be, I think a piece of program material, no matter what age it was for, that is all commercial, so long as it is fully identified as that—on cable, there is a whole lot of that, but I don't think anybody is fooled by what it is.

I think the only evil I would see is if people were passing off commercial material as program material.

Mr. BRYANT. All right. I just wanted to be clear where we stood on that issue.

So, the question then, if we are talking about interactive TV and the case in point being Captain Power, is whether or not it is or is not a program length commercial, or to what extent it may be.

My question to you, then, is—you may have answered this already—was this character, was this whole concept developed with the idea of having a toy line as well as having an entertainment program from the beginning?

Mr. WEEMS. As I say, this was developed independently of Mattel. This was not an internally created concept.

Mr. BRYANT. Well, whoever dreamed it up, the concept from the beginning was a program that involved a toy which you could purchase at a store and shoot at the screen, or somehow interact with the program. Is that right?

Mr. WEEMS. No. The interactive technology was developed by Mattel. The story line, the idea that it would be live action and would use computer generated images, that was developed independently of Mattel, with no knowledge of our technology.

Mr. BRYANT. I am asking about the Captain Power package. Was the Captain Power package developed as a program that would also involve the purchase of an interactive toy?

Mr. WEEMS. No. As I say, the interactive technology was something the people who created Captain Power were not aware of when they created the concept.

Mr. BRYANT. OK. Ms. Charren, do you have a comment on that? Is that your understanding, as well?

Ms. CHARREN. I think that what we hear from the so-called creative community now, the people in the Hollywood creative community mostly who contact ACT about their problems getting shows put together—and for all we know, they are not reasonable shows. I mean, they could be terrible programming and that is why they are not getting to the air. But they say that if they can't make a connection to a toy and make a deal with a toy company at the

moment they put the package together, that they can't do anything with it, with some rare exceptions.

I mean, Hallmark put $10 million into Zoobilee Zoo with no products, and it is winning awards all over the place. There are certainly nifty exceptions to this problem on the air.

But that deal, it doesn't really matter which comes first now, because they have used up all the toys they can turn into programs. I mean, when Hasbro went to a plastic necklace to turn into—that is Charmkins—to turn into a program, they pretty much did those things in, I guess. And now the things get developed at one time.

Can you imagine turning a plastic necklace into a TV show?

Mr. BRYANT. Let me ask you a question again, Mr. Weems. Do they write the script—when the script writers put together each sequence, each segment of this show, are they going to be considering toy sales?

Mr. WEEMS. No, they don't consider toy sales.

Mr. BRYANT. Why not?

Mr. WEEMS. Because they are writing the best show they can possibly write.

Mr. BRYANT. Well, would they write one in which there wouldn't be many opportunities to shoot that gun over there?

Mr. WEEMS. The interactive technology is something that they are certainly aware of when they write the shows, but they are not writing a video game. They are writing a television show.

Mr. BRYANT. Well, I don't know what your financial arrangement between Mattel, the manufacturer of the airplane gun there, and the writer of the show is, but surely you would be somewhat disappointed if they had segment after segment that didn't contain any opportunities to shoot at one of these fleeing enemies.

Mr. WEEMS. We are in the toy business and that is certainly a concern of ours.

Mr. BRYANT. What is your agreement in that regard?

Mr. WEEMS. I am sorry?

Mr. BRYANT. What is your agreement with the producers in that regard?

Mr. WEEMS. Our objective is always to——

Mr. BRYANT. No. What is your agreement with—surely, you have some type of assurance, if you are going to put these toys on the shelves, that these programs are going to contain opportunities for the child to shoot at the screen. So, what is your agreement that protects you in that regard?

Mr. WEEMS. Yes, we are very interested in it being interactive. We are also very interested in it being entertaining.

Mr. BRYANT. I didn't ask you about your interest. You surely have some kind of agreement with the people that are going to put the TV show on the air, that there will be some opportunity to use that little toy right there to shoot at the screen.

Mr. WEEMS. Yes.

Mr. BRYANT. That the script will contain events which will allow the child to shoot at the screen. What agreement do you have with them that guarantees that that opportunity will be there?

Mr. WEEMS. There are always action adventure segments in this show. That is the nature of the show.

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Mr. BRYANT. The word, agreement, refers to an arrangement between two different parties that guarantees to one party that certain things will happen and to the other party that certain things will happen. I am asking, what guarantees do you have, as the manufacturer of that toy, that there are going to continue to be opportunities for the child that buys the toy to use the toy in interacting with the show?

Mr. WEEMS. I believe I have said, yes, there is an agreement. They understand that the show is interactive. You asked me what segments would make it interactive. I said the action adventure segments in the show. Because, you see, the entire show is not an action adventure segment.

Mr. BRYANT. Am I asking this question wrong?

Mr. COOPER. If I could take some of the gentleman's time.

Mr. BRYANT. Yes.

Mr. COOPER. Isn't there an agreement that between 4 and 6 minutes of each broadcast would contain something you could shoot at?

Mr. WEEMS. As I said earlier, yes.

Mr. COOPER. OK. So it's specifically between 4 and 6 minutes of every show has to have targets in it that people can hit?

Mr. WEEMS. No, it's not specific. There will certainly be ranges. It's something that—yes——

Mr. COOPER. Well, I gave you a range between 4 and 6 minutes.

Mr. WEEMS. And sometimes it will be less than earlier. I seldom doubt it will be as much as——

Mr. COOPER. Do you have it written in a contract that it will be between x minutes and x minutes of target practice in each show?

Mr. WEEMS. There is no contract—there is no specific agreement on how much time will be a target practice. That is not the nature of the show. The nature of the show, it has action adventure that naturally lends itself to being the interactive segments.

Mr. COOPER. So Mattel is risking millions of dollars on toy airplanes, and you don't have anything in writing from the producer of the TV show that there is going to be a certain amount of time for target practice? You've got to do it on a gentleman's handshake?

Mr. WEEM. No—right, there's nothing saying you should put 4 to 6 minutes of target practice in this show.

Mr. MARKEY. The gentleman's time has expired.

Mr. BRYANT. Mr. Chairman, could we ask him to explain what the relationship of the——

Mr. MARKEY. Would the gentleman like to put it in the form of a request to the Chair?

Mr. BRYANT. Just 30 seconds.

Mr. MARKEY. Without objection, the gentleman is granted an additional 1 minute.

Mr. BRYANT. Could you just explain to the committee the connection between Mattel and the producers of the show, what the financial relationship is?

Mr. WEEMS. Mattel is financing the show.

Mr. BRYANT. Do you have editorial control over it?

Mr. WEEMS. I'm sorry?

Mr. BRYANT. Do you have script control over the show?

Mr. WEEMS. Yes.

Mr. BRYANT. You don't need an agreement, then.

Mr. WEEMS. No, I have been very clear that this is a show that Mattel is very involved in.

Mr. MARKEY. The gentleman's time has expired.

Mr. WEEMS. Could I address that a little further? Just t

Mr. MARKEY. The gentleman's time has expired. I'm [illegible] will be able to find a way of inserting it into your next answer.

The Chair recognizes the gentleman from Illinois, Mr. Bruce.

Mr. BRUCE. Mr. Chairman, I had an opening statement I'd like to insert at this time, but I'd be also willing to wait until we ask all the questions of witnesses; whatever your preference is.

Mr. MARKEY. It can be inserted in the record at the appropriate point, if the gentleman would wish that to be the case. Do you wish to make an opening statement?

Mr. BRUCE. Right. I think it would probably be more appropriate to allow the questions to continue, and then if I could make my opening statement at the end of the questions.

Mr. MARKEY. OK. That would be fine. Without objection, the gentleman will be allowed to do that.

The gentleman is recognized for a round of questions at this time.

Mr. BRUCE. The opening statement will take a long time. I will reserve my time for that rather than the questions, Mr. Chairman.

Mr. MARKEY. Well, what I am saying to the gentleman is if the gentleman wishes, we'll make a unanimous consent request that you be allowed to make an opening statement at the conclusion of the round of questions with the panel, and also grant the gentleman the right to question this panel at this time.

Mr. BRUCE. All right. Thank you, Mr. Chairman.

Ms. Charren, I did not get a chance to hear your entire presentation, but as you know, Mr. Markey and I will be introducing legislation today to recodify some of the 1984 regulations regarding advertising. I noticed in the last monthly edition of Broadcasting that you stated the reintroduction of this guideline would stem the tide on program length commercials. Would you please expand on that thought by explaining why this is important, and how the reintroduction of the 1984 guidelines would be helpful to children? I'm curious as to exactly how that stems the tide.

Ms. CHARREN. Well, there are two problems with commercials. One is the 30-second commercials, which is the old kind of thing ACT used to be concerned about in the 1970's, where we looked at the deception and what those messages were like and how many there were. And then there's the commercialism that comes with the program being in the editorial control of the toy company.

It is our understanding that the 1969 case on Mattel, ABC and Hot Wheels was—the outcome of that case was in part because of the commercial restrictions on speech, and that if there had been restrictions on speech when we—when we went to the FCC in 1983 with the complaint that there were 13 programs that violated that 1969 decision, the response of the FCC in 1964 was in part to do away with commercial restrictions.

Now when they did that, the implication was that our petition from 1983 was moot at that point, because what was keeping those programs from happening, based on the 1969 case, was the fact

that you couldn't have more than 9½, 12, even 16 minutes an hour of commercial speech by that time. And that if there was no restriction, that then there was nothing keeping these shows from developing. And I think that there was a general understanding throughout the industry—the FCC said it to us in informal conversations—that we've had it when it came to trying to stem this tide.

I think if you put back that restriction of 9½ and 12 minutes, that with the kind of testimony we just heard, for example, that the program is in the editorial control of Mattel, the toy industry and broadcast industry would be hard-pressed to say that what looks to the press, the courts and Congress like a 30-minute commercial or a 26-minute commercial or even a 25-minute commercial, because there are other commercials that interrupt, is OK.

We think that if you say 9½ and 12 minutes, or maybe nine and a half eventually, which makes much more sense, that the whole industry will get the message. If the FCC makes that perfectly clear, we will be back to the period of time between 1969 and 1983, when nothing like that happened on television. You didn't have to explain to the broadcaster exactly what was OK and what wasn't. Nobody did it. And that, I think, speaks to a precedence problem to is it OK to have Peanuts? Peanuts is not a commercial. Charlie Schulze does not commercials in that newspaper, he writes editorial comment, and just because it sells product, that's very much like what Sesame Street does. Sesame Street is not doing that program to sell Big Birds. And one major difference with Sesame Street and everything else we have talked about here is that they don't even advertise it on television. There must have been tremendous pressure to get that kind of stuff advertised on television, and Joan Cooney, at least, has—now, although it's been 20 years, has not let that happen. And we think that reinstating that guideline is going to stem this tide completely of what has happened to children's television since the FCC said we don't care how much commercial time there is.

We think that's OK for adults. We think adults do not like commercial speech, and that the marketplace to a degree really does work; that a Sears Roebuck catalog for adults is fine. I'm in the position where I think that even a toy catalog for children would be fine, ½ hour toy catalog, "If you look at this program, kids, you'll find out what you can buy, how much it costs, and find out what to lobby for at Christmas or Hanukkah." That's very different from turning their programming stories into commercials, and I think that the guideline would deal with that.

I think, in fact, it would handle it. Now if it doesn't, you'll just have to have another hearing and another meeting, another rule.

Mr. BRUCE. Ms. Padden, I wonder what impact you think it would have of reducing the commercial time to 9½ minutes.

Ms. CHARREN. I think that the industry is generally responsive to laws and rules when it looks like somebody is going to enforce them. I think that it really is a shame we had to have this hearing at all, because it's ACT's feeling that the public interest standard in the Communications Act laid out very nicely for an industry that was concerned with the FCC that made noises every once in a while about, oh, the poor children, and it worked. It worked beautifully all through the 1970's. CBS had 20 people in their news de-

partment doing alternative programming for children, and we didn't have program-length commercials. I think—I forget the question, she says gently, having started to talk so much. What was it that I was answering? Nothing? You forget it, too?

Anyway, I think it's a nifty idea, that bill.

Mr. BRUCE. Mr. Padden, I wondered, we have talked about toys and tie-ins and economics of the marketplace, and we talked about—Mr. Bryant, I think, explored an area. Could you actually bring a program in today's marketplace forward to television unless you had a toy tie-in? Would Mattel or anyone else be interested in putting a program on the air? I mean is there a production company in California that is even interested in bringing it forward, or have we used a Gresham's Law that bad programming has driven out all good programming?

Mr. PADDEN. Before you got here, I think I showed a tape of a lot of programming that is on the air right now that is not related to toys in any way at all. Some of it is local programming, and some of it is——

Mr. BRUCE. I saw that, the last part of it. What percentage of all the broadcast time during the children's viewing hours would that comprise? 10 percent? 20 percent? 80 percent?

Mr. PADDEN. I can't give you a percentage. I don't know. We did a study that determined that currently independent stations average 23.4 or 24.3 hours a week of children's programming.

Mr. BRUCE. I've raised two children, and I'm occasionally at home on Saturday mornings. I can tell you that I have three independent stations, we have 20—you know, we are blessed by cable. I have never seen any of those programs. I have a 15-year old and an 11-year old. I've gone through nine or 10 years of television, and never saw one of those programs that you ran through.

Mr. PADDEN. The principal concern in 1974 was that there was no programming at all for kids during the week. That was the number one concern. And the examples I brought you here today were almost all Monday through Friday programs that run on independent stations. And I brought them for the purpose of showing that the independent stations have been responsive to the absence of programming for children during the week, and I've got to jump in on your comment about being blessed with cable. Because whatever arguments we may have about the social utility of children's programs like "My Little Pony" or "Charmkins,"I think everyone would agree that they are a lot less harmful to children than are the music videos that are available 24 hours on demand for children on cable. And I have been in cable homes when there were quality programs available for children on independent stations, and you walk in, and the kids are sitting there watching some depraved music video with violence and sex, and bizarre behavior, and I really wonder if we——

Mr. BRUCE. Well, obviously you'd be upset because if they're not watching independent stations, none of your independent stations is selling commercials to whoever watchs the independent network. But I wonder about my question. Can you in fact envision a program that doesn't market a toy?

Mr. PADDEN. Yes, I can. And as I said a little earlier, there are some of our stations who have put a lot of programs on the air that

the toy companies are associated with and about which a lot of people are concerned, and they haven't worked.

Last year there were a phenomenal number of these shows that were flops. Now this fall there's a brand new show out of Disney called Duck Tails. It's not particularly associated with any toy as far as I know, but obviously Disney has a huge line of toys and related merchandise. And there is also the new Zoobilee Zoo show that we showed a minute ago that does not have any associated toys. And I think that a lot of stations out there looking at the decline in kids' audiences—we are doing this study, we honestly want to find out the reason for the decline, and I think the answer is yes, you can have a show without toys.

Mr. MARKEY. The gentleman's time has expired. The Chair recognizes the gentleman from Ohio, Mr. Eckart.

Mr. ECKART. Mr. Chairman, I can't help but recall sitting around my brother's house, I guess it's when we were home for the August recess, and one of his friends said that they were going out to buy a new car, and they had just come back from looking at Pontiacs, at which my 7½-year-old son turned around and said, "Oh, that's neat. They sell excitement."

Well, my son, I guess, has watched a TV commercial or two during his limited allowed viewing. It makes a tremendous impression upon them. And I guess I share the concerns of some of those who questioned before me, that entertainment—encouraging the child's participation in that entertainment through the sale of a toy with which they can actively participate in something that was heretofore only presented to them—is just very compelling for a 7- or 8-year-old. And while I guess I would agree that interactive television in the long term, on balance, will probably be better than simple television as we know it today, I can't help but get the feeling that once again we have appealed to the lowest common denominator as the point of entry, as opposed to a more preferable way of starting. That would be my social comment. Let me try a question or two.

Mr. Weems, I guess I would be concerned about stations sharing in merchandising revenues as a result of the sale of these products that are featured on individual programs. Is there any record to suggest that that is a problem, or do you particularly, speaking on behalf of Mattel, have any ethical prohibitions on sharing profits from the sale of toys with stations that run the programs to which these toys are linked?

Mr. WEEMS. As you point out, I can only speak on behalf of Mattel. And no, we will not share merchandising with television stations.

Mr. ECKART. And that is a corporate policy, as well?

Mr. WEEMS. Yes.

Mr. ECKART. Do you have any idea if it extends in any way to other arrangements with other manufacturers or producers of television programs?

Mr. WEEMS. Again, I cannot speak to the rest of the toy industry and do not want to.

Mr. ECKART. I am concerned about the level of diversity, Mr. Padden, in these programs. I must tell my friend, Mr. Bruce, I don't often—ever watch what my son watches on Saturday morn-

ing. Maybe I should. Part of it is that we allow him 1 hour on Saturday mornings, and Sandy, most of the time, watches it. I confess to either being in the District or doing paperwork on Saturday mornings.

Do you have any concern long term about these programs? And do you envision any appropriate congressional or FCC role here?

Mr. PADDEN. As I said before, we are doing a study of our own. We are leading with our chin. We have disclosed the study to the world. We are going to share the results with the subcommittee, with ACT, to try and find out why children's audience levels have declined.

And it is not just a case of them moving from broadcast to cabled or VCRs. We are talking about the total time spent using the television set has declined.

We are hopeful that we will find and that the subcommittee will find that through a good faith survey of this kind and the response that the industry makes to the findings of that survey, that our audience will be restored to its former level and a lot of your concerns will be alleviated.

Now, I said in my testimony, we are not sitting here saying we have a closed mind to any regulation or to any legislation. We are just asking for a chance to conduct our survey, respond to it, and then let you judge whether there is something else that you feel needs to be done.

Mr. ECKART. Well, we look forward to the results of that very much.

I guess I would conclude, Mr. Chairman, simply by saying that I am terribly impressed how children are so easily influenced by what they see on television.

There was a story, Mr. Chairman, on the use of a particular insecticide on apples that ran on the network news. I believe it was CBS. I am not absolutely certain. And the story was about why EPA was going to ban this spray on apples because the spray itself persisted in the apple and could not be washed off.

I do most of our grocery shopping, Mr. Chairman, and I take Eddie with me. When we went through the fruit and vegetable market, I said to Eddie, who loves apples "Eddie, you help me pick out some apples." And he said "No." I said, "Why not?" He said, "We are not buying apples anymore." I said, "Why not?" He said, "Daddy, they are poison, they kill you." Now, he is only 7½-years-old.

Just like Pontiac builds excitement, apples now kill. And but for Snow White and a charming prince to rescue her from a bad apple, I am concerned about commercialization of children's television, whether it is that gloppy, syrupy, pure sugar cereal that they push, or toys, or the level of violence that I see in children's television, given children's impressionable minds.

I must tell you that I am not enamored of a legislative direction to solve this. I think you all are better served if you can appreciate and understand that there are millions of Eddies out there.

So, I guess that is how this one particular member sees it.

Thank you, Mr. Chairman. I yield back the balance of my time.

Mr. MARKEY. The gentleman's time has expired.

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Any other members seeking to ask additional questions? The Chair recognizes the gentleman from Washington, Mr. Swift.

Mr. SWIFT. I thank the Chair.

Mr. Weems, does the Mattel Toy Company, in its division that produces television programs, produce any programs that are not related to a Mattel toy?

Mr. WEEMS. No. All of our programming is based on Mattel character lines or character lines that we have licensed from outside producers.

Mr. SWIFT. So, when you told Mr. Bruce that you are in the toy business, you are really in the toy business, and the production of television programs is really ancillary to being in the toy business or additive to, or really part of the marketing strategy for the toy business. Is that fair?

Mr. WEEMS. No, that is not correct. We are in the business of entertaining children, and entertaining children in our entertainment properties is critical.

Mr. SWIFT. You are in the business of entertaining children.

Mr. WEEMS. Exactly. And I would like to add one thing——

Mr. SWIFT. You know, some of the greatest imagination that goes into children's programming in this country is the sophistry that you come up with to explain the things you are doing to get around common sense, to get around Peggy Charren, to get around the former FCC, and to get around Congress and the psychologists.

You are in the business to entertain children. That is sophistry. You are in the business to make and sell toys, are you not?

Mr. WEEMS. We are in the business to entertain children. We are also in the business to make a profit at it. We feel that we have brought something that is diverse, that is a breakthrough.

We have been talking a great deal about bringing new things to television. This is something, it is a live action show, it is not a cartoon. It uses computer generated images, like you have seen only in the movies before. It is the first interactive television show. We feel it will qualify and stand on its own as an entertaining television show. And if it does not, it will go off the air.

Mr. SWIFT. Mr. Weems, if you want to sit there and convince us you believe that, that is fine. But I am not a fool. I don't believe it.

I would simply like to note for the record that we have a listing in the committee of 61 programs that are based upon toy products that are available, that are made by 19 different toy companies.

It is clear the toy industry is in the television production business as part of their marketing strategy, and the television industry had better be perfectly aware of that and begin to exercise greater control over what is going on, not fall for the commercial sophistry, or at some point the patience will finally break and we are going to put this thing back in the barn where it is supposed to be.

I yield back my time.

Mr. MARKEY. The gentleman's time has expired.

The Chair recognizes the gentleman from Texas, Mr. Bryant.

Mr. BRYANT. Thank you.

Mr. Weems, you have said that advertisement for Captain Power will not be run during the program itself. My question is whether

you are going to use the actor that plays Captain Power in your advertisement for the toys?

Mr. WEEMS. Of course, we have only done a very few of the commercials here. The first commercial that ever went on the air had the actor that plays Captain Power. But as you know, the television show is not on the air. That commercial is now off the air.

Mr. BRYANT. What is that now?

Mr. WEEMS. I said the first commercial that went on the air prior to the show ever going on television—it is not on yet, goes on this Sunday—the actor was in it.

Mr. BRYANT. Are you going to use the actor who plays Captain Power in your advertisement for selling the toys, the toy line?

Mr. WEEMS. Quite possibly. But as I say, the advertisements that are produced, running, going on the air now do not. But no, I am not going to say that we won't use the actor.

Mr. BRYANT. Well, are the toy jets that you are going to sell to children, are they in design and appearance based on the jets and the vehicles that are seen in the show?

Mr. WEEMS. Yes.

Mr. BRYANT. Well, you have got a program length commercial by any definition. I don't see how you can possibly avoid that conclusion.

You admit that you developed the concept, this concept has been developed jointly with the notion of selling products. You have a division that focuses on the sale of toys, combining that with the sale of products. You have got the character selling the products in advertisements.

That gadget there, which you say is not a gun but is designed to shoot at people, is going to be seen in the movie, and the actors that play are going to be on the commercials.

So, we are talking about a way for Mattel to sell toys here.

Mr. WEEMS. Well, I would like to address that, and I would also like to address the 61 shows that are based on toy related character lines.

Some of those shows have been very, very successful, continue to be successful, are on the air. Some of them were moderate. Some of them were not successful, went off the air. I think that is the nature of the television business. It either entertains an audience or it doesn't entertain an audience.

No, we do not feel that our shows are program length commercials. We are not interweaving the actual playing of the toys in the shows. We are trying to develop a show that will stand on its own as entertainment. If it succeeds, it is because it entertains.

I would like to take He-Man just as an example, because I think that is something everyone is very familiar with. He-Man is now going into its fifth season on the air. It has been a successful show year after year. But it has also spawned, in addition to a spinoff series, it spawned a magazine, spawned an animated movie, it spawned a traveling arena show, and it has now spawned a live action movie.

Mattel did not finance all those things. Those things were financed by other parties because they see the entertainment value of He-Man. And it continues to be a very successful property in all the different entertainment ventures that it has been in.

Mr. BRYANT. I don't guess I see the relevance of the He-Man example to what we are talking about here. You have put before us here what I view to be a program length commercial. How does He-Man argue against that conclusion?

Mr. WEEMS. I want to be very clear that the show stands on its own for its ability to entertain.

Mr. BRYANT. Except for this. You are not going to permit the script writers to write a script that excludes the use of that toy right there as the 30 minute program plays itself out, are you?

Mr. WEEMS. As I said, I am very proud of the fact that this television show is interactive. I believe it is a breakthrough. I believe it is the type of——

Mr. BRYANT. Whether you are proud of it or not, I am just saying, the point of the matter is, the script writers are not going to decide to do a more passive script 1 week to maybe deal with some type of human circumstance that happens to that week exclude shooting at fleeing robots that happen to look just like people.

Mr. WEEMS. It is an all family action adventure show. It is designed to appeal to a broad audience, kids, teenagers and adults. And yes, it is an action adventure show.

Mr. BRYANT. Well, let me ask you this question. You said that all the interactive targets are robots, not human characters, as in support of the concept. You have also noted that the importance of human life is continuously emphasized throughout the programming, although I would note that the whole premise is that the United States has been destroyed by some war in the previous century.

One of the questions before this subcommittee is the cognitive ability of children to distinguish between commercial messages and program content.

I wonder if you believe that small children who are unable to distinguish between commercials and programming will be able to see the distinction between a human-looking robot getting vaporized and an attack on a real human being?

Mr. WEEMS. Yes, it is going to be made very clear. The problem is, of course, we just looked at a few excerpts from the show.

Mr. BRYANT. Well, they have arms and legs and they run from danger, just like human beings do.

Mr. WEEMS. But they are also made out of metal and parts and things like that. Again, we are not looking at a whole show, we are not looking at the show in the context of the series. Yes, it will be very clear that these are robots, these are machines.

Mr. BRYANT. They talk?

Mr. WEEMS. They talk with a very metallic and robotic——

Mr. BRYANT. They run from danger, they salute the authority figures. I saw one of them salute a minute ago. They fall down dead when they get shot.

Tell me how you are going to distinguish between these entities and human beings?

Mr. WEEMS. It will be made very clear in the context of the show, these are robots.

Mr. BRYANT. I have no more questions, Mr. Chairman.

Mr. MARKEY. The gentleman from Ohio.

Mr. ECKART. No questions, Mr. Chairman.

Mr. MARKEY. The Chair recognizes the gentleman from Illinois, then, for an opening statement.

If we are through with these witnesses, let me excuse the witnesses first.

Let me say, Mr. Weems, thank you very much for coming. Some of the other manufacturers did not. I was very tough on you. I want you to know that was generically. You and your company are to be commended for being willing to come and engage in the public debate on this issue. And we very much, as a committee and I personally, very much appreciate that public-spirited attitude on the part of your company and your personal courage for coming, when you knew this was not going to be the easiest audience you ever faced. I thank you for that. You are excused.

And I recognize the gentleman from Illinois.

STATEMENT OF HON. TERRY L. BRUCE, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF ILLINOIS

Mr. BRUCE. Thank you, Mr. Chairman. I appreciate the opportunity to have this hearing and participate with this subcommittee.

As you know—if the clerk would distribute copies of the legislation that Mr. Markey and I are introducing today, which will basically encodify the pre-1984 FCC guidelines regarding children's television advertising.

As we have discussed today, in 1981 the FTC's final staff report and recommendation in the matter of children's advertising noticed that, out of respect or a desire to please, children are prone to accept any role model, and consequently, children place indiscriminate trust in television advertising, as Congress Eckart has indicated through his child in two instances.

They certainly trust advertising that they hear on television. And until they reach a certain definite age, it is very difficult for them to understand that a commercial is a selling tool, and often times they are very clearly being deceived.

There is nothing new about this finding. Mainstream psychological research for a long time has found that young children believe that fictional characters appearing in television advertising are real, they want to help them. They are perceived as friendly, the selling figure is sincere, they are honest, and they are worthy of imitation.

Realizing this problem, the Association of Broadcasters published their Children's Television Advertising Guidelines, and this code responsibly outlined the public service responsibility of broadcasters and weighed that against the practical necessity of broadcasters to make a profit. And we have discussed that this morning.

Based on this input from the industry, the FCC issued its Children's Television Policy Statement in 1974, which essentially provided practical standards which protected 1st Amendment rights, allowed stations to earn a profit, and enhanced broadcasters' ability to realize their legal, public responsibility to protect children from excessive advertising.

Unfortunately, in 1984 the FCC attempted to graft sort of a pure free market theory onto the social responsibility that broadcasters

had and that responsibility to serve the public interest. This grafting of the pure free market economics has been significantly detrimental to serving our Nation's children.

I believe in free market economy. I believe that market forces ought to be allowed to operate. In fact, the first bill I introduced in this session of the Congress was the Regulatory Fairness Act, which amends the Federal Power Act to allow market forces to closely determine utility rates. I was joined by members of this subcommittee, from both sides—Mr. Swift, Mr. Tauke, who was here, Mr. Leland, Mr. Oxley, Mr. Nielson, Mr. Eckart, Mr. Richardson, Mr. Boucher, who was here, Mr. Cooper, as well as Chairman Markey—and we all supported the Regulatory Fairness Act because we wanted to set a free market theory in effect and make an economic determination regarding setting utility rates.

But today, we are not dealing with pure economic theory. We are dealing with social responsibility. The free market is a viable theory of economic regulation, but the free market is a bankrupt theory for social regulation and responsibility.

Relying on the marketplace for children and using them to determine the course of children's programming is about as wise as allowing children, as a marketplace, to determine their courses in school.

The FCC experience with using the free market since 1984 to regulate children's television has, in my own estimation, from testimony we have heard today and a subcommittee report that has been prepared for members, has proved that theory is ineffective.

If the free market were working in children's television, quality programs, like quality products, would receive increased consumer support and superior ratings. These ratings would determine the commercial success of programs. The inferior programs would be driven from the marketplace. But that is not what we find.

In fact, in May, the Wall Street Journal said that the whole area of children's programming is turning into a battlefield and reported, as we have heard testimony today, that while ratings of programs are down a whopping 20 percent, the number of these programs has increased by nearly 30 percent.

As a marketplace, it does not work when you have a consumer who is a child, who is incapable of making a qualified market judgment, and therefore needs special care.

Instead of a free market, we have a chaotic market which is being polluted by artificiality in the form of commercial tie-ins between toy manufacturers and the cartoon show producers. These tie-ins drive out quality programs and make it impossible for a free children's TV market to work, even in an economic sense. As Michael Brockman, who oversees daytime programming at CBS, recently pointed out, there is more attention being given to the best deal than to the best program.

I am aware of the fact that there have been cases of commercial tie-ins for years. But it seems to me that the problem is growing increasingly worse at a very rapidly increasing rate, especially since the FCC abandoned the guidelines which my bill and Mr. Markey's bill would reinstitute.

I would like to associate myself with the views of Advertising Age, which gave a scathing editorial called "A TV License to Steal

From Kids." It says, you know, you can't tell the commercials from the programs, particularly if you are a child and unable to comprehend what advertising is and certainly unsophisticated enough to know what a licensing deal is. And we have talked about that today. A small child doesn't know a licensing deal when it appears on the television, but I think the TV producers and TV networks certainly know.

Advertising Age expressed my opinion. It says, "In the beginning, we didn't mind so much. But now the small fry is being bombarded 6 days a week with product theme shows." It goes on to quote, "Children's TV sorely needs innovation, diversity and substance. But unhappily, with would-be sponsors flooding the air waves with tailor made vehicles, there is little room for children's program producers who might want to sell more shows that make children think and grow up gracefully."

And Advertising Age concludes by warning that "Those responsible for the building avalanche of toy licensed TV should get themselves ready for another great consumer group, and that consumer and the consumers' outcries that they are going to have."

They said, "Although it takes a little time for the public to react to excess, reaction is sure to come and many voices will be heard." We heard many of those today.

I think the legislation that Mr. Markey and I have put in this morning certainly is modest, a modest response to the overwhelming amount of material that we have seen. It returns us back to the pre-1984 level of 9½ minutes per hour of programming during weekends and 12 during the week, eliminates host selling, eliminates tie-ins, and makes some distinction between content and commercial messages.

I think Ms. Charren's written testimony, which I did have a chance to read—you know, the fact that it says, stay tuned, we will be right back after this message, is probably not an adequate warning to the child that you are going to go from program to commercial. And that is the separation you presently have between the commercial content of the program and the commercial itself. And I think we can do better.

I think there ought to be some legislation to balance the need for broadcasters to make money, and I think we have heard that, and balance that with the public interest and the children's interest.

Thank you, Mr. Chairman.

Mr. SWIFT [presiding]. I thank the gentleman.

Our second panel today includes Dr. Jerome Singer of Yale University's Department of Psychology, Dr. William Dietz, Chairman of the Task Force on Children's Television and a Fellow of the American Academy of Pediatrics at Tufts, Dr. Dale Kunkel, a Professor of Communications and Communications Studies Program at the University of California, Santa Barbara, and Dr. Gerald S. Lesser, Bigelow Professor of Education and Developmental Psychology at Harvard's Graduate School of Education.

We welcome all three of you gentlemen. All of your prepared texts will, without objection, be made a part of the record, and we will recognize you in the order I have you here on my paper.

Dr. Singer, you may begin.

STATEMENTS OF JEROME SINGER, DEPARTMENT OF PSYCHOLOGY, YALE UNIVERSITY; WILLIAM DIETZ, FELLOW, AMERICAN ACADEMY OF PEDIATRICS, TUFTS NEW ENGLAND MEDICAL CENTER; DALE L. KUNKEL, PROFESSOR OF COMMUNICATIONS, UNIVERSITY OF CALIFORNIA, ON BEHALF OF THE AMERICAN PSYCHOLOGICAL ASSOCIATION; AND GERALD S. LESSER, BIGELOW PROFESSOR OF EDUCATION AND PSYCHOLOGY, HARVARD UNIVERSITY

Mr. SINGER. My name is Dr. Jerome L. Singer. I am Professor of Psychology and Co-Director of the Family Television Research and Consultation Center at Yale University.

For the past 20 years I have been involved in empirical research and scholarship concerning the role of television in early, middle childhood and in adolescence. I served on the advisory board of eight experts responsible for overseeing and writing portions of the National Institute of Mental Health two-volume report, Television and Behavior, which appeared in 1982. I also served on the board of childhood specialists which prepared the Guidelines for Children's Advertising that is now regularly employed by the Children's Advertising Review Unit of the Council of Better Business Bureaus.

In a certain sense, television may be regarded as a member of the family. By age two to three, children are already watching on the average of 26 to 30 hours of television during the week. Because of the well documented consistently high rates of violent actions that characterize adult programming as well as the Saturday morning cartoons, children are exposed to a picture of the world that suggests what can only be termed an outrageous level of aggressive actions for dealing with conflicts.

The results of several studies we have conducted, as well as other studies in the United States and Europe, consistently suggest that even when family life styles are taking into account, young children who watch a great deal of television, especially adult oriented programs, are more likely to be restless, disruptive and aggressive at home, in the playground or in school. Such heavy viewers are also more likely to adopt a picture of their society as one fraught with danger.

Our data also suggest that children whose families do not actively intervene through discussion, monitoring or limiting of viewing are likely to suffer in learning skills and in comprehending the nature and function of television commercials.

The television set in itself is not the culprit. There is very substantial evidence that children who are exposed to programming that encourages constructive values of sharing, helpfulness and imagination actually are influenced in what we call a more prosocial direction. Programming that is paced toward the developmental level and cognitive capacities of child viewers at appropriate ages, that includes real adults as mediators or quasi family figures, and that depicts scenes using real children or adults as well as occasional fantasy characters can be very effective not only as entertainment but as a teaching medium. In a period when there are so many sets of working parents or single family homes, and

frequent disruption of family live, children need all the help they can get, and television could do much good in this respect.

But what is the sad reality? There is, except for a few programs for preschoolers, like Mister Rogers' Neighborhood or Sesame Street, or an occasional series like Wonderworks on the Public Broadcasting System, no regular programming for children that meets reasonable criteria of constructive social value. The cartoons on Saturday morning are full of violence, confusing pacing, and they are increasingly designed to promote specific toys or dolls so that they represent, in effect, ½ hour product commercials.

The available research data and the agreement of experts who prepared the Guidelines for Children's Television Advertising used by the Better Business Bureau suggests the extreme vulnerability of children to story character-sponsored commercials, which is what much of the Saturday cartoons really are. And what alternatives to watching adult oriented, relatively violent or sexually provocative programming do children have during the weekday afternoons or evenings when, according to statistics, they do most of their television viewing?

A newly emerging trend, the use of so-called interactive television methods in which children can presumably react directly to the screen content, is fraught with further hazards. Everything psychologists know about learning suggests that an interactive approach should be especially effective. But what will the content of such programming be? If it is designed to sell pistol or rifle like implements, the children will only be taking on the further message that violence is the only way to handle conflicts.

The television industry has been given the privilege of use of the public air waves under conditions of some regular provision of public service. Certainly, in investigative reporting, documentaries and news coverage it meets some of the criteria for public service. In its first two decades, the industry and certainly many local stations did provide live adult mediated and reasonably educational programming regularly for children.

Unfortunately, as Dr. Kunkel, who will speak later, has documented in analyses of the course of FCC regulation, the withdrawal of requirements that public service include appropriate programming for children has led to a drop in network and local station responsibility. Instead, we have the host-sponsored cartoons which research suggests exploit children's limited capacity for discrimination and their high levels of suggestibility.

Children are our greatest natural resource, and the television industry could have a very positive impact on its youthful viewers if it accepted its obligation for serious public service commitment to them.

Since it is failing that, as we see, we may need legislation, or firm application of the already in place and appropriate regulatory Agency pressure for ongoing, age-specific and educationally thoughtful programming for children.

Thank you, Mr. Chairman.

Mr. BRUCE [presiding]. Thank you, Dr. Singer.

Now we have Dr. William Dietz, Chairman of the Task Force on Children's Television, a Fellow, American Academy of Pediatrics, at Tufts New England Medical Center in Boston.

Dr. Dietz.

STATEMENT OF WILLIAM DIETZ

Mr. DIETZ. Mr. Chairman, thank you for the opportunity to address you and the subcommittee on behalf of the American Academy of Pediatrics. As you may know, the American Academy of Pediatrics represents 32,000 pediatricians in the United States.

Next to the family, we believe that television may be the most important source of information for children and a principal factor influencing their development. We are, therefore, concerned about how much television children watch, what they learn from what they watch, and what they are watching. And we are specifically concerned about program length commercials and television activated toys because of their power to promote violent or aggressive behavior in children, the likelihood that they will increase the passivity with which children watch television, and their capacity to reduce or inhibit imaginative play.

Now, I think the language we use to discuss these toys characterizes our debate and in fact limits the solutions. Peggy has already address the term, program length commercials, which is a far more apt description of these programs than toy-based programs.

But I would like to spend a moment talking about the so-called interactive toys. This, I think, is another misleading term, because the action is all one-sided. The television set affects the child. The child doesn't affect the television set. And as was repeatedly emphasized this morning, as Mr. Weems stated, he can't affect the outcome of the program. These are television activated toys. And I agree with either you or whoever the representative was who said this, that we are talking about now program length commercials to sell television activated toys. Now, this represents the latest steps in the commercialization of children's television.

Initially, television advertised toys. After the toy was purchased, the child decided when and how to play with it. The second stage was initiated with the program length commercials, which advertised the toy and showed the child how to play with it. And we are now at the third stage, with the advent of program length commercials to market television activated toys. All the child has to do is buys the toy. Either the television will play with the toy for him or he will be unable to fully enjoy the program without it. The toy has become an essential part of this process.

Now, interestingly, the increase in televised violence has paralleled the rise in program length commercials. For example, over half of the best selling toys on the market had television shows with violent themes, and many of these toys glorified war.

A child sees Rambo or G.I. Joe as a hero conquering evil and is never shown the maimed children, the destroyed villages, or the famine and the disease that result from such violence. The average child, who watches 25 hours of television a week, sees 12,000 episodes of violence on television annually. Program length commercials contribute the majority of these episodes.

And it makes us wonder whether the rise in violent crimes committed by pre-adolescents is related to the rise in televised violence. Certainly there is an interlocking of this commercialization of chil-

dren's television and the violence that they see. Television activated toys are yet another development that jeopardize the kind of active, creative process required by play.

Parents should consider play time as an active, creative process. Some of the television activated toys will increase the passivity with which children view television. In other cases, such as Captain Power, which is a program to which the child can respond and one in which a gun fight is simulated with a televised character, violent behavior is, in effect, encouraged.

The American Academy of Pediatrics believes that the use of television programming as a billboard to sell toys to children is not in the public interest. As has been pointed out, no other programming would be allowed to exploit an audience in this fashion. The academy strongly supports passage of Senate Bill 1505, the Children's Television Act of 1987, which would effectively mandate the daily broadcast of programs that would enrich the lives of children. Unfortunately, a companion bill does not yet exist in the House, but is essential.

Because the FCC has ignored its responsibility for the regulation of children's television, as emphasized in the recent appellate decision, the academy also endorses hearings such as these.

Mr. Chairman, we commend you for holding these hearings and applaud your efforts and those of other members of the subcommittee on behalf of children. I am certain that the academy will vigorously support your efforts to reinstate the 1974 guidelines.

Thank you very much for re-introducing them.

Mr. BRUCE. Thank you, Dr. Dietz.

Our next witness is Dr. Dale Kunkel, Professor of Communications, Communication Studies Program at the University of California at Santa Barbara.

Dr. Kunkel.

STATEMENT OF DALE KUNKEL

Mr. KUNKEL. Mr. Chairman and members of the subcommittee, my name is Dr. Dale Kunkel. I am a communications researcher at U.C.-Santa Barbara, and I am testifying today on behalf of the American Psychological Association.

My research focuses on two dimensions of children and television. First, examining children's understanding of television advertising from a psychological perspective, and second, studying broadcast industry practices in the children's television area. I would like to comment briefly on each of these two realms.

There is a substantial body of empirical evidence which documents the unique vulnerability of young children to televised commercial persuasion. This research is summarized in my written testimony as well as in numerous scientific documents, such as the landmark study conducted by the National Science Foundation in 1977.

In short, this research provides a clear and valid basis for public policies designed to ameliorate children's inherent susceptibility to televised persuasion.

The Federal Communications Commission recognized these findings long ago and established several policies designed to address the issue.

First, the Commission implemented guidelines restricting the amount of commercials that could be broadcast during children's programming.

When it later rescinded these guidelines, the Commission argued that regulation was unnecessary because marketplace competition would serve to prevent overcommercialization. Specifically, the Commission reasoned that viewers would turn off a station that aired "too many commercials" and that competitive marketplace pressures would therefore prevent excessive commercial practices.

The merit of applying this concept to adult viewers remains somewhat of an open question. But from my perspective, its application to the child audience is flawed.

There is no consensus of evidence to indicate that young children dislike television advertising, and indeed many studies indicate that children greatly enjoy watching commercials. Thus, it seems almost implausible to me to argue that child viewers might feel annoyed or offended by a station with a heavy commercial load and therefore seek other viewing alternatives.

In sum, I do not believe it can be argued that the deregulated marketplace will in and of itself function to limit the amount of commercial content during children's programming as effectively as governmental regulation.

This position is supported by an elaborate content analysis I have conducted of the non-program material presented during children's programming.

As an aside, I would like to mention, Mr. Padden's comments today raised some issues regarding definitions involved in the study. I obviously don't have time to address those issues during my statement here with the time limitation, but I would hope to have the opportunity to reply to them during the question period.

The study that I have conducted is appended to my written testimony. So, I will only briefly summarize the results now. The study examined all non-program content on eight independent television stations in four major markets across the country. All weekday, early morning and later afternoon children's programs were surveyed throughout the year, 1985, the year immediately following deregulation of the guidelines.

My findings indicate that overall these stations presented an average of 13 minutes and 28 seconds of non-program material during their weekday children's programs. The individual averages for three of these stations exceeded 14 minutes per hour, and only a single station was found to be in compliance with the previously existing limit of 12 minutes per hour.

From another perspective, this means that roughly 22 percent of the time that children spend watching these programs actually consists of exposure to messages primarily designed to persuade and influence the viewers.

Assuming there was a reasonable level of compliance with the FCC's 12-minute guideline when it was in effect, this study's findings indicate a marked increase in the amount of non-program content as a result of deregulation. Let me turn now to a second type

of policy implemented by the Commission in the 1970's that has also been recently deregulated.

In 1974, the Commission established a policy known as the Separation Principle, which holds that broadcasters' public interest obligations require them to maintain a clear separation between program and commercial content during their children's programming.

Several application of this principle remain in effect, such as the restriction on host selling and a requirement that broadcasters insert program-commercial separation devices during their children's programming. However, the FCC has rescinded a third application of this separation principle, that of the prohibition of programming primarily intended to promote products to children.

If the Commission feels that the separation principle is no longer a valid foundation for public policy, then one would expect they would say so and discard all applications of that regulatory approach.

If, on the other hand, the Commission continues to hold that the separation principle is required by the public interest, then how can it justify dropping one application of the concept while maintaining the remaining two?

To conclude, I wish to emphasize that the FCC has begun to dismantle its policies restricting children's advertising practices without having addressed at all the fundamental principles which were responsible for their establishment in the first place.

Since 1974, when the FCC first implemented policies designed to protect children from both excessive and aggressive advertising practices, nothing has changed in the way in which child viewers process and understand such messages or the way in which they are influenced by them.

Accordingly, I see no rational basis for abandoning the regulatory policies in this area which are designed to ensure that broadcasters' and advertisers' profit motivations do not compromise the public interest.

Research examining children and television advertising provides a solid foundation for concern about protecting the interests of child viewers.

To argue that one can justify the rescission of public policies designed to protect children's interests in this area because children are "fair partners" in the advertising process would be a folly.

And the only remaining avenue to justify deregulation, that governmental restrictions are not necessary to accomplish the goal of limiting either excessive or aggressive advertising practices, is refuted by the evidence I have presented today.

Thus, it is my conclusion that the public interest requires that the FCC's previous regulations designed to protect children from advertising abuses must again be placed in effect.

Thank you.

[Testimony resumes on p. 118.]

[The prepared statement and attachment of Dr. Kunkel follows:]

American Psychological Association

STATEMENT OF

Dale L. Kunkel, Ph.D.

Communications Studies Program

University of California, Santa Barbara

Santa Barbara, California 93106

on behalf of

THE AMERICAN PSYCHOLOGICAL ASSOCIATION

before the

UNITED STATES HOUSE OF REPRESENTATIVES

Subcommittee on Telecommunications and Finance

Committee on Energy and Commerce

on the subject of

RESEARCH AND POLICY REGARDING CHILDREN AND TELEVISION ADVERTISING

September 15, 1987

The Honorable Edward J. Markey, Chairman
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Mr. Chairman and members of the Subcommittee, my name is Dr. Dale Kunkel. I am a communications researcher at the University of California, Santa Barbara. I am testifying today on behalf of the American Psychological Association (APA). Many of APA's members are involved in scientific research related to the mental abilities of children. In particular, APA members have contributed much of what is known about the nature of children's understanding of television and their susceptibility to advertising.

My research focuses on two dimensions of children and television which I believe are relevant to today's hearing. First, my work includes empirical studies of the influence of television on children, with an emphasis on children's understanding of television advertising. Second, my research also examines broadcast industry practices in the children's television area, paying particular attention to the influence of various regulatory decisions and policies on the industry's programming efforts in the children's realm. I would like to offer comments in both of these areas that I believe will be relevant to the Subcommittee's interests, and will then conclude with a set of recommendations for future policy.

As I understand it, the primary catalyst for today's hearing is the recent U.S. Court of Appeals ruling (Action for Children's Television, et. al. v. FCC, June 26, 1987) which held that the Federal Communications Commission (FCC) had failed to justify adequately its decision deregulating guidelines that limited commercial content during children's television programming. Accordingly, the most important issue before this body today may be a determination of whether or not specific regulatory guidelines on this area are appropriate and, if so, what should they be.

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To address this issue, I would first like to summarize briefly a substantial body of empirical evidence examining children's understanding of televised persuasive messages, or what we adults somewhat callously refer to as commercials. It is the findings from this research that document the need and provide the foundation for public policy in the area of children's television advertising.

I. Children's Understanding of Television Advertising

Due to inherent limitations in young children's cognitive abilities, they differ from adults not only in what they think, but also in how they think. Young children below the age of about 7 years have consistent difficulty in recognizing complex intentions and motivations on the part of others. Applying these concepts to the situation a child confronts when he or she views a commercial, we find strong evidence that young children lack the ability to recognize the persuasive intent that necessarily underlies all television advertising. Moreover, a substantial proportion of children up to the age of about 5 years lack the perceptual capabilities to even discriminate program material from advertising content, which obviously precludes any recognition of the persuasive intent of commercials.

In simple terms, this means that child-viewers up to the age of about 7 years process the information contained in television advertising no differently than they do any other content presented on television. They are neither wary nor skeptical of advertising messages, but rather tend to accept product claims and appeals as being truthful and believable. Thus, given young children's limited level of cognitive development, their

exposure to television advertising creates a situation that makes them especially vulnerable to commercial persuasion.

I should make clear that the application of these psychological principles to children's understanding of television advertising in the way I have just described is neither new nor controversial. A landmark research report (Adler, Friedlander, Lesser, Meringoff, Robertson, Rossiter, & Ward, 1977) published by the National Science Foundation (NSF) in 1977 reached the same conclusions I have presented. The NSF's report served as the impetus for the Federal Trade Commission (FTC) in 1978 to propose banning or severely restricting all television advertising to children too young to understand its selling intent, on the basis that such advertising was inherently unfair and/or deceptive to children (Federal Trade Commission, 1978).

Ironically, the complaints of unfairness that were heeded ultimately in the FTC case were those of the toy manufacturers, soft drink, candy, and sugared cereal industries, and others who wished to advertise their products to children. In the FTC's final decision in this proposed rulemaking (Federal Trade Commission, 1981), the following conclusions were reached:

1. Young children place indiscriminate trust in television advertising;
2. They do not understand the persuasive bias in television advertising, and;
3. The rulemaking record establishes legitimate cause for public concern.

Nevertheless, the FTC chose to take no action in this proceeding, relying instead on the existing policies of the Federal Communications Commission,

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which also shares oversight responsibilities in the television advertising area to protect the best interests of children.

II. The FCC's Policies and Their Impact on the Children's Television Marketplace

How has the FCC addressed this issue? In the early 1970s, the Commission examined the topic of children's television advertising and determined that certain limitations on broadcaster's commercial practices were necessary to meet their public interest obligations to the child audience (FCC, 1974). One application of this finding was the enactment of the guidelines that are at issue today, which limited non-program content during children's programming to 9 1/2 minutes per hour on weekends and 12 minutes per hour on weekdays. A second approach the FCC pursued to help protect the child audience involved the establishment of what has come to be known as the "separation principle." I would like to comment on each of these two areas, first dealing with the limit on the amount of advertising.

II.a. Limits on the Amount of Non-Program Material

The 9 1/2 and 12 minute guidelines were adopted by the FCC in 1974, though the precise figures were determined more by the broadcast industry than the Commission itself. These standards were first implemented as part of the National Association of Broadcasters' (NAB) self-regulatory code and then embraced by the FCC as appropriate public policy. The Commission was operating from the perspective that, given the evidence of children's inherent vulnerability to commercial persuasion, there ought to be a limit on the amount of commercials to which child-viewers were exposed. The FCC

also wished to balance the needs of broadcasters to generate adequate advertising revenues to help support the production of children's programs. Thus, when the NAB enacted the 9 1/2 and 12 minute guidelines as part of its self-regulatory code during the same time that the FCC was considering the issue, the Commission determined simply to go along with the NAB's figures.

In the FCC's 1984 broadcast deregulation order (FCC, 1984), which rescinded virtually all restrictions limiting the amount of commercial content television licensees could present, it was argued that marketplace competition would serve effectively to prevent overcommercialization. Specifically, the Commission reasoned that viewers would desert a station that aired "too many" commercials, and that this decline in viewership along with its corresponding decline in advertising revenues would force such stations to reduce their commercial content in order to remain competitive. The merit of applying this concept to adults remains somewhat of an open question. From my perspective, however, its application to the child audience is flawed.

To function effectively, the marketplace process that the FCC contends will limit overcommercialization requires two important criteria: (1) viewers must be annoyed by excessive commercial interruptions, and; (2) viewers must be capable of recognizing and responding to differences in the level of various stations' commercial practices. Herein lies the problem of applying such rationale to the marketplace of children's programming.

There is no consensus of evidence to indicate that young children dislike commercials. Indeed, many studies indicate that children greatly enjoy watching television commercials. Moreover, even if children were annoyed by a substantial increase in non-program material and therefore

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sought other viewing alternatives, the fact remains that there are at best a limited number of options available in children's programming. In many television markets, child-viewers who might wish to search for alternative programs would be hard pressed to find other child-oriented content on competing channels. In sum, I do not believe it can be argued that the deregulated marketplace will in and of itself function to limit the amount of commercial content during children's programming as effectively as governmental regulation.

This position is supported by an elaborate content analysis I have conducted of the non-program content presented during children's programming (Kunkel, 1987b). The study I will describe is appended in full to my testimony and therefore I will omit a detailed description of the methods and procedures that were involved in measuring and analyzing this data. To summarize, the study examined all non-program content, including commercials, program promotions, station identifications, and public service announcements, on 8 independent television stations in 4 major markets across the country. All weekday early morning and late afternoon children's programs were surveyed for a period of two days during each of four quarters throughout 1985, the year immediately following deregulation of the guidelines. A total of more than 260 hours of broadcast programming was coded and analyzed, a figure that exceeds substantially most previous studies of children's advertising.

The findings indicate that, overall, these stations presented an average of 13:28 minutes of non-program material during their weekday children's programs. The individual averages for 3 of the stations exceeded 14 minutes per hour, and only a single station was found to be under the

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previous limit of 12 minutes per hour. From another perspective, this means that roughly 22% of the time spent viewing these children's programs actually consists of exposure to messages designed primarily to promote products and influence youngsters.

Assuming there was a reasonable level of compliance with the FCC's 12 minute guideline when it was in effect, this study's findings indicate a marked increase in the amount of non-program content during children's programming as a result of deregulation. Thus, it seems fair to conclude that the unregulated marketplace provides "a serious basis for concern about overcommercialization on programs designed for children." This quotation is precisely the same conclusion the FCC reached in its 1974 Children's Television Policy Statement when it first established the 9 1/2 and 12 minute guidelines (FCC, 1974, p. 39399).

Since 1974, when the FCC first implemented its policies designed to protect children from both excessive and aggressive practices, nothing has changed in either the way in which child-viewers process and understand such messages or the way in which they are influenced by them. Accordingly, I see no rational basis for abandoning the regulatory policies in this area which are designed to ensure that broadcasters' and advertisers' profit motivations do not compromise their public interest obligations.

II.b. The "Separation Principle"

Part of young children's difficulty in defending against commercial persuasion stems from their inability to discriminate program from commercial content. Recognizing this concept, the FCC established the principle that broadcasters must maintain a "clear separation" between

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programs and commercials during children's programming (FCC, 1974). In the FCC's words:

> If advertisements are to be directed to children, then basic fairness requires that at least a clear separation be maintained between the program content and the commercial message so as to aid the child in developing an ability to distinguish between the two (FCC, 1974, p. 39401).

The Commission applied this principle in three different ways. First, it required broadcasters to insert program/commercial separation devices during all children's programming. These are short 5 second "bumpers" that say something like "and now a word from our sponsor," or "and now back to the show." Broadcasters were also prohibited, (a) from using host-selling techniques, such as having Fred Flintstone appear in a commercial for "Fruity Pebbles" cereal during the broadcast of a Flintstone cartoon program, and, (b) from promoting products to children within the body of the program content, a practice that has come to be known as the "program-length commercial" approach.

The guidelines I have just described, coupled with the now-disputed limit on non-program material, comprise virtually all of the governmental regulations ever enacted pertaining to children's television advertising, not exactly an onerous or burdensome list. The point I wish to emphasize, though, is that the FCC has begun to dismantle the framework of these existing protections restricting certain children's advertising practices without having addressed at all the fundamental principles which were responsible for their establishment in the first place. This is precisely the point the Court of Appeals ruling makes, but it does not go far enough

in noting the inconsistencies the Commission has created with its recent rulings in this area.

As I have already noted, no evidence has emerged since 1974 that would mitigate our concern about young children's vulnerability to television advertising. Thus, in terms of the three original applications of the separation principle -- the requirement for bumpers, and the restrictions on host-selling and product-related programming -- there would seem to be no basis for a change in regulatory policy. However, in its 1984 broadcast deregulation order (FCC, 1984), the Commission rescinded its restriction in the third area, that of allowing products to be promoted within the programming content itself. In so doing, the FCC has created an anomalous situation.

If the Commission feels that the separation principle is no longer a valid foundation for public policy, then one would expect they would say so and discard all applications of that regulatory approach. If, on the other hand, the FCC continues to hold that the separation principle is required by the public interest, then how can it justify dropping one application of the concept while maintaining the remaining two -- the restrictions on host-selling and the bumper requirement?

The answer to this question likely involves what is, from my perspective, a misunderstanding on the part of the Commission and its staff. They have treated the product-related programming restriction as a regulation that was grounded solely on the concern that children not be exposed to "too much" advertising and discarded it along with the guidelines limiting the amount of commercial content. Lost in the shuffle here was the

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recognition that an entirely different and fundamentally important consideration was involved -- that of the separation principle.

Perhaps it was an oversight in the recent court ruling that the FCC's deregulation of product-related programming was not included in the demand along with the guidelines limiting the amount of commercials. But it is important to recognize that the same logic the Court employed applies here as well! The FCC implemented two major changes in its children's advertising policies in the 1984 broadcast deregulation order: (1) it lifted the 9 1/2 and 12 minute guidelines, and; (2) it rescinded its prohibition of product-related programming. In neither instance was any consideration of the impact of these changes on child-viewers considered. If one of these policy changes must be reconsidered for its lack of support and failure to consider its impact on child audiences, then it seems only fair to include the other in the same process as well.

III. Recommendations

Research examining children and television advertising provides a solid foundation for concern about protecting the interests of child-viewers. Young children, by virtue of their limited cognitive abilities, are inherently susceptible to televised commercial persuasion. This position has been recognized and accepted by the Federal Communications Commission, the Federal Trade Commission, and the National Science Foundation.

To argue that one can justify the rescission of public policies designed to protect children's interests in this area because children are "fair partners" in the advertising process would be folly. And the only remaining avenue to justify deregulation, that governmental restrictions are

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not necessary to accomplish the goal of limiting excessive or aggressive advertising practices, is refuted by the evidence I have presented today. Thus, it is my conclusion that the public interest requires that the those regulations put in place in 1974 by the FCC which were specifically designed to protect children from advertising abuses must be reinstated.

I would like to offer the following specific recommendations for the Subcommittee to consider as public policy goals in the children's advertising area:

1. The FCC's longstanding policy limiting the amount of commercial content during children's programming should be reinstated.
2. The FCC's policy restricting product-related programming, which actually predates the limits on the amount of commercial content during children's programming, should also be reinstated.
3. The Congress should charge the National Science Foundation with the task of conducting a 10 year update to its 1977 report, Research on the Effects of Television Advertising on Children.

This final recommendation is an important one to help complete the research agenda on children and television advertising begun in the 1970s. The obvious parallel that can be drawn here is with that of the U.S. Surgeon General's research program in the effects of television violence on children. The Surgeon General issued a major research report in 1972 that provided answers to many questions on that topic. Still, an update was commissioned 10 years later by the National Institute of Mental Health to extend these findings and summarize new research.

Similarly, the NSF's report on children and television advertising resolved many key issues of fact, but also posed additional questions that could extend our knowledge in this area and contribute to more informed and effective public policy. An update of the NSF report could be supported simply on the merits of addressing the issues already raised in the 1977 volume and synthesizing the findings from recent studies, but there are additional considerations that offer even stronger justification for this project.

With the FCC's deregulation of its restriction on children's product-related programming, we now see an entirely new method of promoting products to children that didn't even exist at the time of the NSF's work. Indeed, this program genre has already come to dominate the children's television marketplace (Kunkel, 1987a) and its widespread presence raises important policy questions that have already been addressed by other witnesses testifying before this Subcommittee (e.g., Bryant, 1985; Wartella, 1985).

The prohibition of children's product-related programming was implemented initially because policymakers assumed it took unfair advantage of children and the trust they placed in program characters. Though this is a reasonable assumption, there is little direct empirical evidence of the influence of such programming on child-viewers. Research examining the effects of product-related programming is needed, as are further studies regarding the effectiveness of the program/commercial separation devices currently required by FCC policy during children's programming. Most research to date indicates these devices do not accomplish their intended purpose of helping child-viewers to discriminate programs from commercials, though at least one study has identified an approach that appears to be much

more effective than the strategies presently utilized by the broadcast industry (Ballard-Campbell, 1983). An update of research on children and television advertising, especially emphasizing the issues I have just noted, should be a high priority.

To conclude, I would like to commend this Subcommittee for maintaining its concern with this important area of public policy. Television is a powerful force in our society, and its influence is never any greater than during the years of childhood. So long as this medium is regulated consistent with the public interest, some restrictions on advertising to child audiences are almost a certainty. I hope my testimony has helped to make that point and to inform you about specific approaches that can assure that one very important aspect of the public's interest, protecting the welfare of our children, is well served.

Thank you for this opportunity to offer this testimony today. Please feel free to call on me or Dr. Brian Wilcox of APA's staff if you have further questions during your deliberations.

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REFERENCES

Adler, R., Friedlander, B., Lesser, G., Meringoff, L., Robertson, T., Rossiter, J., & Ward, S. (1977). Research on the effects of television advertising on children. Washington, DC: U.S. Government Printing Office.

Ballard-Campbell, M. (1983). Children's understanding of television advertising: Behavioral assessment of three developmental skills. Unpublished doctoral dissertation, University of California, Los Angeles.

Bryant, Jennings. (1985, October 28). Testimony at Children's television programming. Hearings before the U.S. House of Representatives Subcommittee in Telecommunications, Consumer Protection, & Finance (Serial No. 99-66). Washington, DC: U.S. Government Printing Office.

Federal Communications Commission. (1974, November 6). Children's television programs: Report and policy statement. Federal Register, 39, 39396-39409.

Federal Communications Commission. (1984, August 23). Revision of programming and commercialization policies, ascertainment requirements, and program log requirements for commercial television stations. Federal Register, 49, 35388-33620.

Federal Trade Commission. (1981, February). In the matter of children's advertising: FTC final staff report and recommendation. Washington, DC: U.S. Government Printing Office.

Kunkel, D. (1987a, May). From a raised eyebrow to a turned back: Regulatory factors influencing the growth of children's product-related programming. Paper presented to the 37th annual conference of the International Communication Association, Montréal.

Kunkel, D. (1987b, July). A survey of non-program content during children's programming on independent stations. Unpublished paper. University of California, Santa Barbara, Communication Studies Program.

Wartella, E. (1985, October 28). Testimony at Children's television programming. Hearings before the U.S. House of Representatives Subcommittee on Telecommunications, Consumer Protection, & Finance (Serial No. 99-66). Washington, DC: U.S. Government Printing Office.

A SURVEY OF NON-PROGRAM CONTENT DURING CHILDREN'S PROGRAMMING ON INDEPENDENT TELEVISION STATIONS

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It is well established that children are influenced by television advertising directed toward them. Moreover, a substantial body of empirical research assessing the process by which children understand and respond to television commercials indicates that those younger than the age of about 7 years inherently lack the cognitive abilities to recognize and defend well against such advertising. Taking this evidence into account, the Federal Communications Commission (FCC) in 1974 established policies regarding the amount of non-program material deemed acceptable during children's programs[1]. These guidelines varied somewhat according to the time of the broadcast, with a limit of 9 1/2 minutes per hour set for weekends and 12 minutes per hour for weekdays. The Commission's goal was to insure, given young children's unique susceptibility to commercial persuasion, that this group not be subjected to greater amounts of advertising than was deemed necessary to maintain adequate financial support for children's programming.

A decade after these guidelines were established, the FCC in 1984 chose to rescind them consistent with its general deregulation of virtually all commercialization practices by television broadcasters[2]. The Commission argued that marketplace forces would serve to maintain reasonable limits on the amount of commercial content, rendering regulatory restrictions unnecessary. Specifically, the FCC indicated that viewers could be expected to seek alternatives and avoid stations presenting excessive amounts of commercials, with the economic threat of a diminution in audience size precluding broadcasters from exceeding the audience's tolerance for program interruptions.

How has the children's television marketplace responded to the rescission of these guidelines limiting non-program content? Two areas must be addressed to answer this question.

First, the Saturday morning children's schedule, provided primarily by the three commercial television networks, must be examined. This time frame typically attracts the majority of attention of researchers interested in children's television, probably due to the fact that it is the only time of the week when children's programs are regularly scheduled by the commercial television networks. Ironically, however, Saturday morning viewing accounts for only a small proportion of children's overall television viewing throughout the week.

Of much greater consequence in terms of children's overall television exposure are the weekday morning and afternoon hours. When children's programming is provided at these times, usually before and after school hours, large numbers of youngsters tune in. Moreover, children's programs at these hours are generally provided by independent, non-network broadcasters who are not bound by the self-regulatory policies the commercial networks have implemented to maintain limits on children's advertising in the absence of the FCC's guidelines. Therefore, the following study was conducted to assess the amount of non-program content typically presented during weekday children's programming on independent television stations.

Method. The FCC's deregulation of its commercialization restrictions for children was implemented in mid-1984. Accordingly, the following year, 1985, was chosen as the focus of this

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research. The two independent television broadcasters providing the greatest amount of weekday children's programming in each of four major urban television markets were selected for study. The cities involved in the study (with 1985 Nielsen television market size rankings indicated in parentheses) include Los Angeles (2), Detroit (7), Washington, D.C. (9), and Kansas City (28).

Two sources of data were utilized. To measure the amount of standard, product-related commercial advertising, data were obtained from Broadcast Advertisers Reports (BAR), Incorporated. This firm monitors and compiles comprehensive listings of all commercial advertising for a given week each month in each of the top 75 television markets. The information gathered, which indicates the nature and length of each commercial as well as the time it was broadcast, is sold to advertisers who wish to verify that their commercials were actually aired consistent with their contracts with various broadcasters. Commercial advertising, however, comprises only a portion of the non-program content typically broadcast during children's programming.

Public service announcements (PSAs), station program promotions, station identifications, and other miscellany (e.g., news and weather bulletins, Emergency Broadcast System tests) are also found regularly during children's programs, but are not included in the BAR Reports. Data for these other categories of non-program content were gathered by visiting each of the stations included in the study and consulting their station logs. It should be noted that under the same FCC ruling that deregulated the children's commercialization standards, broadcasters were also freed from the requirement to maintain

comprehensive public records listing all material broadcast. Nevertheless, each station examined in this research had, consistent with longstanding practice, continued such recordkeeping. Their logs, which indicate the nature and length of each of these types of messages as well the time they were broadcast, were copied verbatim for each of the sample periods.

Sampling was conducted during each of the four quarters of 1985. Specifically, data were collected for a two day period during each quarter. Two weekdays were selected at random during a given week in each of the months of March, June, September, and December. The weeks that were sampled coincided with the period of measurement for that month's BAR Report[3].

Two day-parts were selected for examination: 7:00 - 9:00 a.m. and 2:00 - 5:00 p.m. These time periods defined the parameters of the study, but data were only included for those times when children's programming was offered. The number of hours sampled for each station varied according to the amount of children's programming provided during these times. For the entire study, the hours sampled for each station ranged from a high of 40 to a low of 25. The total number of hours sampled for all stations was 267.5.

Results. Analyses of the means for each of the various types of non-program content are presented in Table 1. Of the 8 stations included in this research, only one continued to maintain a level consistent with the FCC's previous guideline of no more than 12 minutes per hour. Moreover, the means indicate that the remaining 7 stations exceeded the previous guideline

substantially, with 3 stations averaging well above 14 minutes of non-program content per hour for 1985. The average amount of non-program time for all of the stations combined was 13:28 per hour, or roughly 22% of the time devoted to children's programming.

Discussion. Assuming there was a reasonable level of compliance with the FCC's previous restrictions when they were in effect, this study's results indicate clearly that the amount of product commercials and other non-program messages presented during children's programming has increased markedly in the absence of such regulation. What implications does this finding hold for the FCC's argument that marketplace forces can better serve to limit overcommercialization practices than governmental regulation?

The FCC has argued that if stations' commercial levels exceed the tolerance level of viewers, then the marketplace will regulate itself. The expectation is that when overcommercialization occurs on any station, viewers would choose to watch a different station with less frequent or extensive interruptions, creating a competitive situation that mitigates against unreasonable commercial practices. The FCC's rationale rests on at least two important assumptions: (1) that viewers are annoyed by commercial interruptions, and; (2) that they are capable of recognizing and responding to differences in the level of various stations' commercialization practices. Herein lies a problem in applying such rationale to the marketplace of children's programming.

There is no consensus of evidence to indicate that young

children dislike commercial interruptions. Indeed, it is not unusual for children to report that they greatly enjoy watching television commercials. Moreover, even if children were annoyed by a substantial increase in non-program material and therefore sought other viewing alternatives, the fact remains that at best only a limited number of options exist in the realm of children's programming. Often times, it would be completely impossible for a child-viewer to switch channels and find other broadcast programming intended for child audiences. From this perspective, it appears that the FCC's position that an inherent marketplace mechanism exists to restrict the overcommercialization of children's programming without the need for regulation is flawed.

The evidence presented in this study is consistent with this interpretation. Specifically, the data indicate that the amount of non-program content has increased noticeably in the unregulated marketplace, with no apparent adverse impact on the size of the child audience for such programming. Thus, it would seem fair to conclude that the unregulated children's television marketplace offers no incentive for broadcasters to limit commercial content.

In summary, this study documents the fact that the FCC's recent decision rescinding its earlier guidelines limiting broadcasters' commercialization practices has generated a marked increase in the non-program content included during children's programming. The Commission must now face the issue of whether or not such an increase is consistent with broadcasters' public interest obligations to the child audience.

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NOTES

1. Federal Communications Commission. (1974). Children's Television Programs: Report and Policy Statement. Federal Register, 39, 39396-39409.
2. Federal Communications Commission. (1984). Revision of programming and commercialization policies, ascertainment requirements, and program log requirements for commercial television stations. Federal Register, 49, 33588-33620.
3. Data for one station, KZKC (Kansas City), was excluded from the BAR Report for March, 1985. No reason for this omission was stated in the report. Consequently, the findings for this station only are comprised of data collected during the other 3 sampling periods.

TABLE 1

NON-PROGRAM CONTENT MEANS PER BROADCAST HOUR

city/station	hours sampled	product ads	PSAs	program promos	station IDs	other	total
Los Angeles							
KCOP	(38.5)	11:06	0:09	1:27	0:20	0	13:02
KTTV	(40)	10:19	1:54	1:16	0:33	0:10	14:12
Detroit							
WKBD	(34)	9:54	0:13	1:15	0:19	0	11:41
WXON	(32)	11:18	0:27	2:42	0:19	0	14:46
Washington							
WDCA	(32)	10:34	1:07	1:04	0:17	0	13:02
WTTG	(33)	11:12	0:42	1:11	1:06	0	14:11
Kansas City							
KSHB	(25)	10:05	1:20	1:06	0:25	0:42	13:38
KZKC	(33)	10:13	0:01	2:38	0:25	0:02	13:19
All stations combined	(267.5)	10:36	0:44	1:34	0:28	0:06	13:28

Mr. BRUCE. Thank you, Dr.Kunkel.

Now we would like to hear from Dr. Gerald Lesser, Bigelow Professor of Education and Developmental Psychology, Harvard Graduate School of Education in Cambridge, Massachusetts.

STATEMENT OF GERALD S. LESSER

Mr. LESSER. Thank you for the opportunity to appear here today.

My name is Gerald Lesser. I teach education and child development at Harvard University. I am a co-founder of the Children's Television Workshop, producers of Sesame Street and several other educational programs for children.

Since a lot of territory has already been covered today, I will make my comments brief and try to describe the research on commercial advertising to children, to provide another perspective. Let me start with a short history of this research.

Between 1960 and 1980, there were literally hundreds of research studies done on three important and related questions:

One: How well can children of different ages distinguish between commercial advertisements and the programs themselves?

Two, and Mr. Bruce mentioned this in his comments earlier: To the extent that children can distinguish between commercials and programs, how well do children understand the selling intent of the commercials?

Three: What needs to be done, through education or through broadcasting techniques such as buffers or separators between programs and commercials, to help vulnerable children to make the necessary distinctions between commercials and programs?

Now, behind all three of these questions was the general policy issue, how vulnerable are children to commercial advertising and, given their vulnerability, what should be done to protect them.

During the two decades, 1960 to 1980, these three questions received a great deal of research attention. So many studies were done that in writing a book that Dr. Kunkel referred to for the National Science Foundation in 1980 on "The Effects of Television Advertising on Children," I was able to cite hundreds of studies on these questions.

That is the history until 1980. From 1980 to 1984 the flow of research slowed, and then in 1984, stopped completely and abruptly. Why? Because there was nothing left to research. Programs designed for children had become full length, 30-minute commercials; commercials had become full length, 30-minute programs.

Once this happened and it became usual for programs to be commercials and commercials to be programs, it was futile, or indeed ridiculous, for researchers to continue studying whether children can distinguish between them or how to help them to do so. There is nothing left to distinguish between because programs and commercials now are often identical. Why study if children can make the distinction when there is no distinction left to be made?

This phenomenon of program length commercials for children shows no signs of abating. They are mostly action/adventure animated programs, mostly featuring high tech robotic characters that are marketed as toys. We have heard a lot about that this morning.

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I won't recite the history of those toys, but they show, as I say, no sign of abating.

From 20 years of research, we know that children are vulnerable to confusion between what they are seeing for education or entertainment and what they are seeing because they are being sold something.

For 20 years, we worried about this and tried to do something to help children, sometimes rather feebly, given the strength of the market forces operating in the children's market.

We don't worry anymore. We simply accept what the marketers have forced us to accept, that on many programs designed for children there are no distinctions between programs and commercials, and that if children are to learn to distinguish between programs and commercials, they must go outside of television to do so.

Where can they go to learn when someone is trying to sell them something and when they are not? We leave it to the children and their families to find their own ways, by themselves.

Is this what we should allow? To deliberately blur what is program and what is commercial, and then leave it to the children to somehow sort it all out for themselves is simply not fair.

If children are failing to distinguish between commercials and programs, what are they learning from program length commercials?

Now, since there is no research available, I can only speculate, but I believe there is a hidden message carried by program length commercials, and the message is this: Just don't let people know what you are up to and you can get away with almost anything.

This may seem like quite a sophisticated message for children to extract, but we certainly are providing a perfect model for them to learn it.

Two other brief comments. The first concerns the effects of the FCC's repeal of its longstanding Children's Television Guidelines. It is clearly documented, as Dr. Kunkel just described, that this repeal resulted in a substantial increase of commercial advertising on children's programs.

What has made this even worse in confusing children between advertising and program content was not only this increase in quantity, but a large change in the type of advertisements used in children's programs.

Now, almost all advertisements are produced in animation. Therefore, we now have primarily animated programs interrupted with increasing frequency by primarily animated commercials, which can only make it more difficult for children to perceive the distinction.

Again, from a researcher's perspective, let me end with an observation that brings all these issues together, the program length commercials, the repeal of Children's Television Guidelines, the potential impact of interactive toys. Not all researchers have given up hope. We expect that there may again be an opportunity to put new research information about children to their protection and to their benefit.

This subcommittee's efforts itself could vastly speed the arrival of that opportunity. But right now, most researchers say, why bother, the FCC has given away the store, all restrictions are off,

broadcasters do what they please no matter what the research indicates. We can only hope that this cannot and will not last forever.

We simply must not allow our children to remain forever exploited, exposed to exploitation.

Thank you.

Mr. BRUCE. Thank you, to the panel.

Dr. Lesser, if I might direct a question to you, since you indicated that it is very difficult to do research.

You served on a panel 10 years ago on the National Science Foundation and looked at all the effects of children's television. You made a conclusion that television advertising took unfair advantage of children, their naivete, their lack of sophistication.

Is there any evidence that you have seen since 1977 that would bring that conclusion into some doubt?

Mr. LESSER. No, none at all. But again, as I indicated, the amount of research accumulated certainly since 1980 has been reduced substantially, and since 1984, none at all.

So, really, I have seen none to bring it into doubt, but the larger conclusion is I have seen no research.

Mr. BRUCE. I just wondered—yes?

Mr. KUNKEL. If I could also address the comment here, Dr. Lesser is very correct, there has been little research in this area, in the area of children's understanding of television advertising.

My perception of the reason for that is that the question was well resolved. There is no doubt, there is no controversy. And in fact, we accept as a clear conclusion that young children below the age of about seven have inherent cognitive limitations. They cannot understand persuasive intent that underlies all television advertising.

In fact, in my written testimony I have suggested that we need to encourage additional research by the National Science Foundation in this area, not because children have changed but because advertising has changed.

Advertising has become more aggressive in many of the strategies that are used to persuade young children, and I think we need to look more closely at the ways in which that operates to possibly generate not the basis or the foundation for public policy action—we already have that clear evidence—but rather to look for possible solutions that might help to resolve that situation.

Mr. BRUCE. I guess, Dr. Kunkel and Dr. Lesser, my concern is, I don't want this hearing to conclude and someone could walk out and say there isn't any new evidence since 1977 and that today's children are a lot more sophisticated than they were in 1977, that they can make this distinction between commercial messages and the program content.

Is there anything that shows that kids are somehow more sophisticated since 1977? Any of the panel members. Yes, Dr. Singer.

Mr. SINGER. Mr. Chairman, we did recently carry out a research study. Our primary focus was not on this topic, but in the course of it we did collect data indicating that children in the 5, 6, 7 and 8-year-old bracket still do not understand the intent of commercials.

We were particularly interested in parental influence and we found that in certain homes where parents took an active stance with relationship to the children explaining and filtering the world

situation more generally for them and filtering the television and explaining things, you got some better understanding of what commercials were.

But that represented only a minority of the families we surveyed. So that we still come to pretty much the same conclusion about confusion and misunderstanding of the function of commercials.

Mr. BRUCE. I was just curious. I think all of you gentlemen were in the room today when we had a discussion about the Peanuts program and Sesame Street. What is your response? I would like to hear all of you. What is really the difference?

They say there is really no difference between Sesame Street, Peanuts, you know, Mickey Mouse, Disney has been commercializing and selling products for years, and spinoffs.

What is the difference between what we are seeing today and what happens with Sesame Street, Disney and others? And why the complaint?

The toy companies come to us and say, no one complained when Disney commercialized things, and Sesame Street has a shelf full of items relating to Sesame Street. But now you are criticizing us.

Mr. LESSER. Let me start with a response with regard specifically to Sesame Street, since I was one of the initiators of that project and I have worked with it for the last 18 years.

Children's Television Workshop is quite distinct from other toy companies in that we are broadcasters, for that matter, and we are a not for profit, non-commercial organization.

We do try to generate some income in the organization so that we can produce new educational television programming for children. If indeed we weren't doing that over the course of these years, Sesame Street would no longer exist. It exists because of our self generating income.

So, it is a question of, yes, there is money being made on Sesame Street products, where does that money go, why is that money being made.

It goes toward the production of new educational programs each year for children, and I think that is a major distinction, accompanying the fact that Sesame Street or Children's Television Workshop is a not for profit, non-commercial organization.

Mr. BRUCE. Dr. Kunkel.

Mr. KUNKEL. In a deregulatory era at the Commission, where there are not requirements that children's programming be provided, what you have is very little children's programming.

In a deregulatory era at the FCC that allows product related programming for children, most of the programs that you have for children are primarily originated as toy ideas.

To the extent that more diversity in children's programming is stifled by its inability to promote toys—as Peggy Charren has said, if you wanted to present the Helen Keller story, you would have to have a Helen Keller doll.

To the extent that other types of diverse educational, informational children's programming is not consistent with the product related programming approach, that type of programming is being smothered out of the market.

Mr. BRUCE. Dr. Dietz.

Mr. DIETZ. I don't have a lot to add to those comments. I was thinking about how one would separate motive. That is, how one would separate program production to sell a toy and program production for entertainment. And the issue is cloudy, I think, with Peanuts.

But what differentiates Peanuts and Sesame Street is not that they are not selling toys or those figures, but the motivation that one uses to develop those programs.

And perhaps the regulatory step that could be taken is to prohibit toy manufacturers from sponsoring program development. That would return us right to where we were when production houses were the source of programs for children, and they made themselves—they gained their popularity by the quality of the production, not the toy that was being marketed and not because that was being funded.

I think that would produce the goal that all of us are concerned about.

I think that in an interesting way, toy manufacturers have shot themselves in the foot with program length commercials, because the decline in television viewing was mentioned here today. I noticed last year that the Nielsen ratings had fallen, the Nielsen estimates of television viewing by children and adolescents had fallen steadily over the last 2 years, the last 6 years. And I am not sure whether that is a significant fall, because I don't have access to the Nielsen sampling frame.

But the toy manufacturers depend on viewers to watch their programs in order to buy their toys, and if they are not making programs that children will watch, then children aren't going to be buying their toys. And I think that may be what is—hopefully, what is happening.

Mr. BRUCE. Dr. Singer.

Mr. SINGER. I would like to particularly focus on the interactive toy issue, because I was personally really horrified by the demonstration that we saw today.

The real danger there is that if the program is popular, and it might well develop the kind of popularity—it seems to be a kind of copy of Star Trek, and I think it might develop some of the same momentum that Star Trek had, except it is a much more violent show than Star Trek, and it has to be more violent because they have got a contract, as they finally admitted, for four to six incidents per show in which you have to shoot at the set.

What that does is force the child who wants to be one of the gang, who is going to come to school and see somebody else with his little gun-like airplane, to say, gee, I have got to get one like that, too. The kids are going to start zapping each other in school. The whole thing will start spreading and pretty soon Hasbro will come out with their version.

And what we are going to see—I mean, we don't need a Hitler youth corps anymore training the kids to be violent, this whole system will, in effect, train kids to go around pointing very realistic looking gun-like implements at the set. I mean, anything we know about reinforcement techniques in learning is going to suggest that this whole process puts children at a great risk in terms of focusing them completely on a kind of violent interaction.

So, there is nothing wrong with interaction per se. It could be very constructive, if the interaction had an effect.

Mr. BRUCE. If I might just interrupt you, Mr. Weems said that they weren't shooting—what he had was not a gun and the people they shot at were not humans.

Mr. SINGER. I would be willing to make a bet with him for a considerable amount of money that if we got a bunch of kids at various age groups in and we asked them what these implements are, that a large percent of them would say some kind of gun.

Mr. BRUCE. Yes. I was intrigued by my own mind because I did see the demonstration, and when he in his testimony indicated that what they had shot at was robots, it would have been interesting to have everyone in the room take a quick sample test, because I never saw the robots on the television program. You know, it is cognitive skill. I saw—I didn't realize that they were robots. I thought they were shooting at human beings.

Mr. SINGER. In this whole question of confusion, I hope I can just take a minute to tell an anecdote.

The program Battlestar Galactica was mentioned as an origin for this Captain Power show. I happened to witness, with of course millions of other Americans, the opening night of Battlestar Galactica, which was on the ABC Network, not in itself a bad program or anything like that. I think it was a pretty imaginative program.

But the program opened on a Sunday night. It was a special, I think a 3-hour special starting at 8 p.m. running to 11 p.m..

At 9 p.m., in the midst of all kinds of things in which the President of the United States had just been assassinated by robots, unfortunately all black clad—I would like to see the robots white sometimes, instead of being black, by the way—but at any rate, I think that in that show, at 9 p.m. there was a sudden interruption of the show and we were taken to what more sophisticated adults might recognize as the Oval Office of the United States White House, where President Jimmy Carter, Prime Minister Sadat and Prime Minister Begin of Egypt and Israel respectively announced the Camp David Accords, everybody shook hands, they made speeches, they hugged each other, and so on. And suddenly they were back in the middle of Battlestar Galactica again.

The ABC Network received many, many protest calls from adults who were able to recognize there was an interruption. I don't know what kids made of that whole experience. But many adults protested the interruption of Battlestar Galactica. So, they were having trouble themselves.

Mr. LESSER. Could I just add one thing? I was so busy explaining the use of the income from licensing for the Children's Television Workshop that I failed to comment on what Jerry Singer has just commented on.

And that is, what seems obvious to me, children learn from watching. The example of interactivity that we saw this morning, what is being taught is how and when to shoot a gun. I think it is as simple as that.

And the confusion between robots and human figures, again somebody mentioned the industry shooting itself in the foot. I think you may have noticed, I have watched a lot of children's shows, so I cognitively process it with a little bit more detail.

Some of the figures are actually half robot and half human. There was one character which had a metal face on one side and a human face on the other. It was almost a deliberate confusion between the two. You don't need that, I think, to indicate the confusion that is produced by those materials, but it seemed almost intentional.

Mr. BRUCE. Mr. Markey, do you have any questions of the panel?

Mr. MARKEY. Thank you very much, Mr. Bruce.

Is there some age cutoff that is of concern to you in terms of children's ability to be able to discriminate between what is real and unreal and what is being sold to them and what is, from their perception, just a part of the program?

Mr. KUNKEL. As I noted earlier, the research in this area is quite clear. The National Science Foundation has done a summary, and there are two primary hurdles that children must overcome to understand and be able to effectively defend against the commercial persuasion.

First, they have to be able to discriminate, and that ability does not evolve in a majority of children until at least the age of four, somewhere between four and five.

The second hurdle they must overcome is the ability to recognize the persuasive intent that underlies televised commercial persuasion. That ability does not evolve in a majority of children until at least the age of about seven, somewhere between seven and eight.

So, until that point is reached, roughly the age of about 7 to 8 years, young children inherently accept as believable and truthful the claims of television advertising.

Mr. MARKEY. In your opinion, what age group would the program that we saw be aimed at?

Mr. KUNKEL. They would contend that it was aimed right up to the level of young adults, in terms of the story content and the sophistication of the dialogue, and that it is not aimed primarily at a 4- or 5-year-old child, but a whole range of audiences, right up to and including late teens and early 1920's even.

Mr. MARKEY. Do you believe that is part of their intent, to have that broader appeal?

Mr. KUNKEL. With the caveat that it is difficult to offer an informed perspective after such a short exposure to the program, my sense with this program, if it is representative of many others, is that we have very little age specific programming for children.

Instead, because the programming is primarily provided as a marketing device, it is going to be designed to appeal to the largest possible audience. And in fact, if you go back to the 1974 Children's Television Policy Statement issued by the FCC, the Commission noted that shortcoming in the broadcast industry.

They charged the industry with the responsibility to develop more age specific programming, because 2- to 4-year-olds and 5-year-olds understand information in television programming much differently than do 9, 10, 11-year-olds, and so forth. There are important cognitive changes.

When the Commission re-evaluated, 5 years after that policy statement, whether or not there had been compliance with their request or their policy, they unequivocally concluded there had not

been, and they went a step further and proposed a rule that there should be more age specific programming.

Mr. MARKEY. Has there been a deterioration in children's programming over the last 3 years since the Commission took those rules off the books? Have you done any study of that particular kind of quantification or even a qualitative analysis of the types of programs before and after that rule?

Mr. LESSER. Could I piggyback an answer to your question about the audience? Because Dr. Kunkel did mention that this is intended for the largest possible audience, and my guess is that largest possible audience will start at age two and a half, which is when they become regular television viewers, in the first place, when they know how to put a video cassette in the video cassette recorder, when they know how to do everything that is connected with a television set.

That is a guess, but I think it is a pretty good guess.

Mr. MARKEY. So, they learn how to put in a VCR before they learn how to read?

Mr. LESSER. Sure, two, two and a half. We have watched a lot of them do that. And they know how to fast forward and all the rest.

To answer your question about the present quantity and quality, somebody mentioned this morning, I believe, that there are no regularly scheduled television programs specifically designed for children on the air today, except for the program length commercials. And I guess that represents deterioration.

Mr. MARKEY. So, who do you blame for that? The independent television stations, the local stations, the networks? Can you give us some sense of where you would levy various levels of accountability in terms of this deterioration?

Mr. SINGER. Well, I would personally say that it falls both on—the networks have the power to produce really interesting programming. For example, CBS used to have the Cosby show, Fat Albert, which was a well thought out research program that used to be on network. It didn't have to be taken by every local station affiliated with CBS, but it was widely shown. That has disappeared.

Captain Kangaroo was sort of one of the last holdouts of a nationally represented program from a network. That has disappeared.

The local stations no longer feel any kind of pressure to show regular programming. The gentleman from the independent stations who was here did show that certain things are persisting, some local stations are continuing shows that have some reasonable quality for children in terms of thoughtfulness, like Zoobilee Zoo. But those, I think you would see, were really very, very scanty amounts compared to what is possible.

Mr. MARKEY. Dr. Dietz, what would you say to the argument that it is really the responsibility of parents to monitor what their children are watching, and that they have the ultimate power of censorship just by turning the dial?

Mr. DIETZ. Well, there is no question about that. That is absolutely true. But I think that argument neglects the value of television or its potential for enriching the lives of children.

Parents, of course, need to regulate television watching. They need to monitor what their children are watching, and they need

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to be particularly careful about the amount of time their children spend watching television.

But for those responsible parents who are looking for an alternative to program length commercials, there is nothing. And I think in response to your question about where to assign responsibility within the industry, that the Children's Television Education Act presents one viable solution to that problem, because if all the networks are mandated to produce 7 hours of television a week that will enrich the lives of their children, they will compete to produce the best television available to gain that audience.

And short of that, I am not certain that you can develop a legislative remedy that focuses on the independents or the toy industry or the broadcasting corporations.

Mr. MARKEY. Just so I can summarize what you said, did you say that the option for parents is to turn off the TV set, but the option really ought to be to turn the station and to have something of higher quality?

Mr. DIETZ. Yes.

Mr. MARKEY. And that is not an option which is now available?

Mr. DIETZ. Exactly.

Mr. MARKEY. Does it bother you that children are put in this situation where some of these toys, which potentially, with extra added attractions which you might be able to build in, might run over $100, might establish in neighborhoods or amongst children that other children are associating with some sense of quasi superiority, that they are able to take advantage of their family's financial situation in order to extract more enjoyment out of television? Is that something we should be concerned with or something that we really have——

Mr. SINGER. No, I think that is really a terribly important issue. The gentleman said that the Captain Power interactive toy would only cost $30 or $40. Well, I can't see a large percentage of families from lower middle class to working class or lower class socio-economic families who could just go out and buy a toy like that. I would have to be a strain. And their kids would be put in a very difficult position in relation to the other kids in the classroom or in the school situation.

Mr. MARKEY. Could I ask, Mr. Lesser, if children's programs from an educational perspective are developed and accessories are needed by children in order to fully derive the benefit from those programs, does that not cause the same kind of problem? That is, the children from lower socio-economic groups might not have the same opportunity and therefore—I mean, just to be consistent here—you know, cause some disadvantage that is in fact created by the additional financial benefits?

Mr. LESSER. Yes, I think that is correct. I think if it took some expensive accessory, as you suggest, to watch Sesame Street, we probably wouldn't do Sesame Street anymore.

It was started at a time when all families, or at least 99 percent of them, rich and poor, had television sets that children could view.

I do have a response to Jerry's comment about your equity issue. Given what children are seeing on that, which is really search and destroy and how to fire a gun, I think that may be one of the very

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few examples in life where maybe you may be better off having less money so that you can't purchase the gun.

Mr. MARKEY. Can I go back to Dr. Singer just for a minute? How do we break through that problem of creating two classes of children when it comes to educational television?

There is a positive and a negative side to this interactive TV, and I don't think anyone is going to deny that. And we don't want to really say that we are not going to explore the positive side of it because certain children aren't going to be able to afford the accessories, at least initially.

Do you agree with that premise or not?

Mr. SINGER. Well, I think that if there were some pressure on the stations to develop programming that was better thought out for children or that had some better, some degree of educational content to it and so on, then there might be ways in which the availability of any interactive tools that would enhance that could be in various ways subsidized for those families that couldn't immediately afford the kind of toys.

I think there would be ways in which that could be built into the structure. I think the companies themselves, just as they used to make the Winky-Dink material available at a relatively nominal cost—and that was a program that had a benign kind of use. I think that could easily become something that would become available. It could even be something that teachers in schools could use and could build a little bit into the curriculum and could be available from that standpoint.

Mr. MARKEY. Can I just ask this one final question, because I was talking to a general manager of a television station and a media commentator recently, and they just said, you know, you are way off base having these hearings, you know, way out of line. I mean, where do you get off making any decisions whatsoever with regard to what kinds of programs children should be exposed to?

Here we are, the products of the 1950's watching Howdy Doody and Captain Kangaroo, and what do you wind up with, you wind up with violence and a drug culture and a culture with a lack of real appreciation for the long term values that you really need. Who are you to judge how people are going to turn out or what they should be exposed to? I mean, who is to say that maybe if you exposed them to a totally different set of images when they were younger, they might have turned out differently.

Where do we get off doing this, and wasn't that experience in the 1950's on television just completely overridden by what happened to the generation that then came of age?

Mr. SINGER. I think as researchers, it is very hard for us to respond to such a general question. I just think there is no way that we can answer a question phrased in that way.

What we can say is that there is ample evidence that if you expose children to certain types of programming, Sesame Street, Mister Rogers, let's say, for the really young children, you can show specific positive gains that they make in comprehension and understanding, in preparation for development of reading skills, in kindness and courtesy to other kids, and so on.

If you can demonstrate that with just a couple of programs that are available, why not consider the possibility that more programs,

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more competitive for this type of programming amongst the networks would produce greater creativity and more likelihood that this would emerge.

If the stations knew that it was expected of them that they produce at least some kind of programming, they would vie with themselves in producing entertaining and creatively educational programming.

Mr. MARKEY. Yes?

Mr. LESSER. Another possibility is that if you don't do it, who is going to do it. It is some sort of combination of the FCC, the broadcasters and the toy manufacturers at the moment. That is the game. I think you guys had better get into the game fast.

Mr. MARKEY. But, Dr. Dietz, you do have studies which indicate a positive result from exposure to high quality children's programming. I guess that is the answer that I am looking for.

Mr. DIETZ. Yes. No question about that. It is also not the generation that was watching television in the 1950's that is responsible for the crime rates increasing today, or even a substantial fraction of the drug usage. The most rapid rise in crime has been among pre-adolescents, who are the group that has grown up on the heavy diet of television violence.

The other point that I wanted to make just a few minutes ago about the television activated toys is that we are seeing one example of this technology, and only one. If you think about it carefully, it is in the interest of the toy manufacturers to make the enjoyment of their programs exclusive for those families able to afford the toys.

In fact, that, I think, represents a further privatization of air waves, because the only people able to enjoy the television program are those who buy the toy. And that, to me, is a very serious perspective, or prospect.

Mr. MARKEY. My feeling is that there must have been something wrong with children's television in the 1950's, if they are all voting for Ronald Reagan today, that there must have been some defect in what they were viewing.

So, my time has expired. I thank the chairman.

Mr. BRUCE. Further questions? Mr. Bryant.

Mr. BRYANT. Thank you.

I would like to ask Mr. Kunkel a question, or really ask you to respond to the remarks of a moment ago by Preston Padden about the average 10½ minute advertising time that he referred to in his survey.

I think you—I am not sure the point you made has been made clear.

Mr. KUNKEL. Yes. The point that Mr. Padden made was to call into question the definition that I had used in the study of non-program content. And I wanted to point out that to explain this I need to go to the origin of the FCC's original policy guidelines in this area.

In 1974, when the Commission first established these guidelines—and these pertain directly to the bill that Mr. Bruce has introduced today trying to re-establish these limits on the maximum amount of advertising content in children's programming.

When the Commission first addressed the topic, they used the terms "advertising" and "non-program content" virtually interchangeably in that policy statement.

The reason for that is that the Commission was concerned about advertising, but it was not ready to establish a firm rule, and instead its policy guideline embraced the National Association of Broadcasters ' code, a self regulatory code, which limited the amount of non-program matter that would be presented during children's programming.

So, although the NAB code's definition was not included per se in the 1974 policy statement issued by the Commission, it clearly was being referred to.

And further support of that comes from the fact that in a 1979 study conducted by the Commission, when they wanted to evaluate whether or not there had been an increase from 1974 to 1979 in the amount of non-program content, in that study, which was authored by Dr. Brian Fontz on the Commission staff, they used the NAB's definition of non-program content.

I would like to read it to you, briefly.

"Non-program material refers to commercial messages, public service announcements (aired only on independent stations), billboards,"—which typically refer to station identifications and so forth—"promotional announcements for programs, and credits in excess of 30 seconds for programs 90 minutes or less in length." The large part is superfluous.

The point I am trying to get to here is that this definition of non-program material includes all of the components which I have used in my study, a study being designed to be applicable to this public policy issue.

And I think that Mr. Padden is misinterpreting the Commission's original concern in this area and saying that it only refers to product advertisements, when it does not.

Mr. BRYANT. Yes?

Mr. DIETZ. May I interrupt? I have to catch a plane and wanted to make myself available for any questions before I leave. I am sorry that I have to leave so early.

Mr. MARKEY. Thank you very much for your participation.

Mr. BRYANT. One last question of Dr. Kunkel. I am curious about your reference to the need for a study by the National Science Foundation to explore the impact of program length commercials.

Why do you think the NSF is more capable than the FCC to undertake the study?

Mr. KUNKEL. The FCC simply does not have behavioral scientists on its staff. In fact, when they have conducted studies in the children's television area in the past, which have been rather few and far between, what they have done is contract out that research to academics, various universities and so forth.

I have called for a study on the part of the National Science Foundation in my prepared testimony here not because there are unanswered questions about the need to regulate or rather the need to establish some policy to protect children in this area, but instead what I am looking for is some studies that will help perhaps offer perspectives on the impact of the new product related programming that is becoming so prevalent in children's television.

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Why do we need those studies? We need them for the reason that Mr. Swift noted in his comments when he became rather exercised here today. He is saying that we are being pushed and pushed farther and farther to the point where the Congress is going to have to take some action. But the Congress clearly doesn't want to be pushed into micro-management in an area that it expects the FCC to accept responsibility for.

And so, what I am doing is, I am suggesting, since you haven't acted, I will be glad to suggest that we can certainly provide you with more evidence of harm. I am not sure you need it. But you are very hesitant to act, and so we can give you more, I assure you, and we will be glad to. But I am not sure that you don't have enough already to take some firm action.

Mr. BRYANT. Well, I certainly agree that the National Science Foundation is more suited to do that, inasmuch as presumably they would not be about the business of trying to dredge up various elements of evidence to support a political ideology, as this FCC has dedicated itself to doing during the three terms that I have been in Congress, not only in this area but in almost every other area, thereby rendering itself almost useless to the public and useless to the Congress in terms of carrying out the intent of the communications laws, the best evidence of which is the fact that we are having a hearing about this matter today, that the Congress is dealing with this matter instead of the FCC.

Mr. KUNKEL. Yes, I agree. Related to the point you make here, although I didn't offer the comment at the time, the question was posed by Mr. Markey, who is responsible for the problems in children's programming, is it the networks, the independent stations.

From my perspective, who is responsible is the Federal Communications Commission in their abrogation of responsibility in this area.

Mr. BRYANT. Would anyone else like to comment on whatever has been said here?

Mr. SINGER. No. I would simply concur with that. I think that I would much prefer to see the Federal Communications Commission exercise its expected overseeing of the industry and the emphasis on the public service requirements for licensing of individual stations that have, since the Communications Act of 1934, been reasonably in place.

Mr. BRYANT. Thank you very much.

Mr. BRUCE. If there are no further questions, the hearing will conclude. But I want to say thank you to the witnesses and the people who have participated. We have learned a great deal this morning.

We will continue to have hearings. Mr. Bryant has a piece of legislation on educational television, which we hope to have a hearing on this fall, and conclude these hearings and give our information back to the full committee, and perhaps Congress can take action on the very big issue of children's television in this country.

I thank the witnesses and for the attention of everyone.

[Whereupon, at 12:58 p.m., the hearing was adjourned, to reconvene at the call of the Chair.]

[The following material was received for the record:]

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STATEMENT OF THE NATIONAL PTA IN SUPPORT OF COMMERCIAL TIME LIMITS RELATED TO TELEVISION PROGRAMS AIRED FOR CHILDREN

by Millie Waterman
Vice-President for Legislative Activity

House Subcommittee on Telecommunications and Finance
September 15, 1987

On behalf of the National PTA and its 6.2 million parents, teachers and child advocates, I am writing in support of commercial time limits related to television programs aired for children. We also support the recent U.S. Appeals Court decision reversing and remanding to the Federal Communications Commission its 1984 order to deregulate time limits on commercials targeted at children. We commend you and the members of the House Subcommittee on Telecommunications for your interest in this issue. For several years, the National PTA, without success, has urged an inquiry into the implications of programs created to promote toys or other products popular with children. Hopefully, the hearings this morning will highlight the questionable practices employed by some manufacturers and broadcasters after the FCC's 1984 decision which freed broadcasters from any limitation on the number of commercial minutes that could be run per hour.

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Quality television issues are not new to the National PTA, nor is submitting statements of our positions to this subcommittee. Since 1973, the National PTA has frequently communicated with the Congress, with Federal agencies and with the television industry about our concerns pertaining to the relative lack of quality television programming for children. Unfair advertising directed at children, the advertising of products injurious to children's health, the few age specific and alternative quality television programs for children and families, and the effects of television watching on children's academic performance and emotional health are all issues of paramount importance to the National PTA. In current years, the National PTA has worked directly with Representative Tim Wirth (now Senator Tim Wirth) and Senators Lautenberg and Simon in an effort to work with the industry to improve the quality of children's television.

These are not frivolous issues for parents who are concerned about the impact of television and advertising on their children's values, attitudes and behavior. While we recognize the responsibility of parents to monitor what their children watch, the National PTA has always maintained that they need assistance from the television industry; which more often than not, have turned a deaf ear to parental requests for more excellent television programming. At each turn, the industry has fought against any federal regulation which would require them to meet their obligation to the children's interest; yet they have

also failed to improve the quality of television when given the opportunity to voluntarily self-regulate. Cries of censorship, denial of freedom of the press, severe economic burden and unconscionable meddling "by those uninformed parents" have been leveled by the television industry at those organizations requesting a share of the decision-making related to children's programs.

In 1984, when the FCC deregulated time limits on commercial advertising, the industry had an opportunity to demonstrate that it could manage its newly found freedom by improving television for children. Yet, here we are in 1987 with the results. Instead of selecting programs to serve the interest of the public and children, the industry chose rather to use the option that deregulation provided by airing program length commercials--programs created specifically to advertise products. Through a unique and innovative ploy, the marketplace worked for the television stations and many toy manufacturers, but certainly not for children. 22 percent of the total time devoted to children's programming now consists of commercials, not counting the commercial content of the program aimed at children. Some 40 shows are now linked to toys, and these programs have become a marketing tool enticing children to buy, rather than to learn. Big bucks have won out over quality children's programming once again. In a study conducted by Dale Kunkel at the University of California, it was concluded that nonprogram time (product ads, public service announcements and station identification) rose

markedly at seven stations in the year after the FCC commercial time limit guidelines were lifted.

The National PTA is encouraged, however, by the recent U.S. Appeals Court decision reversing the FCC's decision that eliminated commercial limits. In addition, we are pleased with the strong language of Judge Kenneth W. Starr, one of the most conservative members of the Appeals Court when he said, "The commission (FCC) has offered neither facts nor analysis to the effect that its earlier concerns over market failure were overemphasized, misguided, outdated or just downright incorrect. Instead, without explanation, the commission has suddenly embraced what had theretofore been an unthinkable bureaucratic conclusion that the market did in fact operate to restrain the commercial content of children's television." The National PTA concurs.

The Appeals Court ruling restores some balance to runaway commercialism and protects an unsuspecting audience with particular psychological characteristics which deserves special attention through the regulatory process. Many children are too young to distinguish between fact and fantasy, between programming and propaganda, the story telling and the story selling. Many children are not able to determine when the commercial ends and the program begins. The FCC deregulation loaded the dice in favor of the industry. It is one thing for the FCC to push an ideology of free market; it is quite another

to lay bare the facts that slick huckstering aimed at the child audience has increased. It appears love of money has pushed aside the children's interest, and the government has a legitimate role in regulating such raw behavior, and restoring some balance. That is not to say that the television industry will be absolved from their responsibility from continuing to provide better programming for children; it is to say that the industry has proven that their private interests, rather than the public interest, predominated when the industry was given the opportunity to self-regulate. The National PTA believes a corrective is required to address this problem. It strains our credulity, considering the facts to accept the media's contention that (1) notwithstanding the commercialism of program length commercials, the programs are of higher quality than the reruns that they replaced; (2) that deregulation will encourage more quality programming; or (3) the First Amendment freedoms of the media are violated by restoring commercial limits. In each case, the facts, the history of the past four years, and past legal decisions do not support these arguments.

The National PTA:

1. Opposes program length commercials aimed at a vulnerable child audience;
2. Supports the reinstatement of the 1984 rules related to limiting commercials;
3. Supports the U.S. Appeals Court decision reversing the FCC decision to eliminate commercial limits in children's programming;
4. Supports an indepth inquiry by both the U.S. Senate and the U.S. House of Representatives on the impact of program length commercials on children should the FCC not decide to reinstate the 194 rules related to limiting commercials.

The National PTA appreciates this opportunity to submit its views before this subcommittee on such an important issues.

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815 15th Street NW • Suite 516 • Washington, DC 20005 • (202) 639-8140

Linda F. Golodner, Executive Director

November 12, 1987

House Telecommunications Subcommittee
House Annex 2-316
2nd and D Street, SW
Washington, DC 20515-6119

Dear Mr. Irving:

The National Consumers League requests that this letter be submitted to the record of the September 15 hearing regarding the commercialization of children's television.

The League, America's pioneer consumer organization, believes that the FCC needs to continue to place restrictions on the amount of commercial time allowed in children's programming. The aim of children's programming should be to entertain and educate, not sell. While we recognize that commercial television has every right to air children's programs, and therefore to air commercials during those programs, we also recognize that children do not have the capacity for judgment that adults do. Instead of leaving children's programming open to commercial bombardment, it is in the best interest of children to restrict the amount of commercial time allowed.

Sincerely,

LINDA F. GOLODNER
Executive Director

LFG:sc

Officers: Robert B. Nathan, Honorary Chairman • Esther Peterson, Honorary President • Jack Blum, President • Esther Shapiro, Vice President • Bert Seidman, Vice President • Ruth E. Kobell, Secretary • Virginia Knutz, Treasurer

COMMERCIALIZATION OF CHILDREN'S TELEVISION

THURSDAY, MARCH 17, 1988

HOUSE OF REPRESENTATIVES,
COMMITTEE ON ENERGY AND COMMERCE,
SUBCOMMITTEE ON TELECOMMUNICATIONS AND FINANCE,
Washington, DC.

The subcommittee met, pursuant to notice, at 1:50 p.m., in room 2123, Rayburn House Office Building, Hon. Edward J. Markey (chairman), presiding.

Mr. MARKEY. Good afternoon. For several years, the members of his subcommittee have been concerned and restive about the state of children's television. The principal concerns have been twofold: the ever-increasing commercialization of children's programs and the lack of a commitment by many commercial broadcasters to providing our Nation's youth with regularly-scheduled educational and informational programming.

This afternoon, the subcommittee will hear testimony concerning these issues and focusing on three potential legislative solutions. Last year, the gentleman from Illinois, Mr. Bruce, introduced H.R. 3288, the Children's Television Advertising Practices Act. More recently, the gentleman from Texas, Mr. Bryant, introduced H.R. 3966, the Children's Television Practices Act. And just last week, Congressman Tauke of Iowa, joined by the Ranking Minority Members of the full committee and subcommittee, Mr. Lent and Mr. Rinaldo, introduced H.R. 4125, the Children's Television Act of 1988.

While the three bills differ considerably in specifics and approach, they share two common goals: increasing the commitment of the broadcasting industry to prepare our Nation's youth for the challenges of the future in an increasingly competitive world, and protecting our children from rampant commercialism and exploitation.

For virtually the entire history of the television industry, there was a mixture of industry self-restraint and governmental rules which served to foster a concern and appreciation for the child audience. Unfortunately, the FCC, at the apex of its deregulatory fever and fervor, blindly stripped away commercial time standards from children's television. The Commission's decision to repeal the commercial time guidelines has been decried by parents, teachers and, significantly, the U.S. Court of Appeals for the District of Columbia.

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Generally, with regard to regulation, I prefer to defer to the industry, or if the industry's self-regulation doesn't work, defer to the appropriate regulatory agency; then and only then do I believe in congressional intercession. We are now at the congressional stage. I recognize that this is not a fight the industry asked for. Broadcasters did not ask for the repeal of their code, nor did they ask the Commission to repeal the guidelines. But we have a steadily worsening situation in children's television.

The Congress can, should and will act on this exceedingly important issue. For if we do not act, commercial television will continue to be the video equivalent of a shopping mall for children, with the sales clerks masquerading as children's favorite cartoon characters.

Before concluding, let me address one last point. Many commentators have suggested that congressional action, particularly as it might affect product-based programs, the so-called "program-length commercial," is unnecessary. It has been asserted that the marketplace is addressing this issue, and ratings show a clear decline in the popularity of such programs. First, even if half of the toy or product-based children's programs presently available were to disappear tomorrow, there will still be more than 30 shows available in syndication. And just 5 short years ago, there were no such programs. But equally troubling is the implication that we as adults should rely on the judgment of children as to whether programs or programming practices are in the best interests of children. After all, we would not let children gorge themselves all day long on Sweet Tarts and Twinkies, hoping that they ultimately would develop the good sense to turn to a balanced diet. We would try to vary their diet in a reasonable way. Similarly, children's television should be nutrition for the mind, not just a junk food diet to satisfy commercial appetites.

We have an opportunity to cause dramatic improvement in the ailments currently afflicting children's television. With judicious use of the medicine of good judgment on the part of the industry and reasonable and responsible legislation, the patient can be cured.

I look forward to hearing from our witnesses.

[Testimony resumes on p. 155.]

[The text of H.R. 3288, H.R. 3966, and H.R. 4125 follows:]

I

100TH CONGRESS
1ST SESSION

H. R. 3288

To require the Federal Communications Commission to reinstate restrictions on advertising during children's television, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

SEPTEMBER 16, 1987

Mr. BRUCE (for himself, Mr. MARKEY, Mr. BRYANT, Mr. LELAND, Mr. SWIFT, and Mrs. COLLINS) introduced the following bill; which was referred to the Committee on Energy and Commerce

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A BILL

To require the Federal Communications Commission to reinstate restrictions on advertising during children's television, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Children's Television Advertising Practices Act of 1987".

SEC. 2. FINDINGS.

The Congress finds that—

(1) while Government regulation of commercial broadcasting has continuously recognized the need for

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1 advertising revenue to sustain a vigorous production of
2 programming, the obligations of users of the public air-
3 waves to operate in the public interest has required the
4 avoidance of abusive advertising practices;
5 (2) until recently, this obligation was recognized
6 as including the avoidance of certain practices in con-
7 nection with children's television programming that un-
8 fairly take advantage of the lack of sophistication and
9 gullibility of a young audience;
10 (3) in a 1970 Report to the Surgeon General,
11 Television and Growing Up: the Impact of Televised
12 Violence (vol. IV), it was concluded that special safe-
13 guards are required to protect children from overcom-
14 mercialization and violence on television because tele-
15 vision provides access to a younger and more impres-
16 sionable age group than can be reached through any
17 other medium of mass communication;
18 (4) the Federal Communications Commission has
19 erred in withdrawing its 1974 Policy Statement con-
20 cerning children's television guidelines, including maxi-
21 mum levels of commercial matter on children's pro-
22 gramming, adequate separation of commercials from
23 program content, and prohibitions on the use of host-
24 selling, tie-in, and other practices that confuse and mis-
25 lead a young audience; and

1 (5) it is therefore necessary to require the Com-
2 mission to correct these defects promptly and specifi-
3 cally.

4 SEC. 3. RULEMAKING REQUIRED.

5 (a) RULEMAKING REQUIRED.—The Federal Communi-
6 cations Commission shall, within 10 days after the date of
7 enactment of this Act, initiate a rulemaking proceeding to
8 prescribe standards applicable to commercial television
9 broadcast licensees with respect to advertising in conjunction
10 with children's television programming.

11 (b) MINIMUM REQUIREMENTS FOR STANDARDS.—The
12 standards required by subsection (a) shall, at a minimum and
13 in a manner consistent with the 1974 Policy Statement, re-
14 quire commercial television broadcast licensees—

15 (1) to limit the duration of advertising in chil-
16 dren's programming [to not more than 9.5 minutes per
17 hour on weekends and not more than 12 minutes per
18 hour on weekdays];

19 (2) to assure an adequate separation between pro-
20 gram content and commercial messages, by use of an
21 appropriate visual, aural, or other device or separation;
22 and

23 (3) to eliminate host-selling and tie-in practices
24 and other practices that involve the use of program
25 characters to promote products.

1 (c) TIME FOR COMPLETION OF RULEMAKING.—The
2 Commission shall, within 120 days after the date of enact-
3 ment of this Act, prescribe a final standard in accordance
4 with the requirements of subsection (b).

5 SEC. 4. DEFINITION.

6 As used in this Act, the term "1974 Policy Statement"
7 means the report and policy statement entitled "Children's
8 Television Programs: Report and Policy Statement", issued
9 November 6, 1974 (39 Fed. Reg. 39396), as reconsidered
10 and reaffirmed (55 FCC 2d 691, 1975).

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100TH CONGRESS
2D SESSION

H. R. 3966

To require the Federal Communications Commission to reinstate restrictions on advertising during children's television, to enforce the obligation of broadcasters to meet the educational and informational needs of the child audience, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 18, 1988

Mr. BRYANT (for himself, Mr. BRUCE, Mr. COELHO, Mr. COOPER, Mr. LELAND, Mrs. COLLINS, Mr. ECKART, Mr. WAXMAN, and Mr. MARKEY) introduced the following bill; which was referred to the Committee on Energy and Commerce

---

A BILL

To require the Federal Communications Commission to reinstate restrictions on advertising during children's television, to enforce the obligation of broadcasters to meet the educational and informational needs of the child audience, 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 "Children's Television
5 Practices Act of 1988".

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1 TITLE I—CHILDREN'S TELEVISION
2 ADVERTISING PRACTICES

3 SEC. 101. FINDINGS.

4 The Congress finds that—

5 (1) while Government regulation of commercial
6 broadcasting has continuously recognized the need for
7 advertising revenue to sustain a vigorous production of
8 programming, the obligations of users of the public air-
9 waves to operate in the public interest has required the
10 avoidance of abusive advertising practices;

11 (2) until recently, this obligation was recognized
12 as including the avoidance of certain practices in con-
13 nection with children's television programming that un-
14 fairly take advantage of the lack of sophistication and
15 gullibility of a young audience;

16 (3) in a 1970 Report to the Surgeon General,
17 Television and Growing Up: the Impact of Televised
18 Violence (vol. IV), it was concluded that special safe-
19 guards are required to protect children from overcom-
20 mercialization and violence on television because tele-
21 vision provides access to a younger and more impres-
22 sionable age group than can be reached through any
23 other medium of mass communication;

24 (4) the Federal Communications Commission has
25 erred in withdrawing its 1974 Policy Statement con-

1 cerning children's television guidelines, including maxi-
2 mum levels of commercial matter on children's pro-
3 gramming; and
4 (5) it is therefore necessary to require the Com-
5 mission to correct these defects promptly and specifi-
6 cally.

7 SEC. 102. RULEMAKING REQUIRED.

8 (a) RULEMAKING REQUIRED.—The Federal Communi-
9 cations Commission shall, within ten days after the date of
10 enactment of this Act, initiate a rulemaking proceeding to
11 prescribe standards applicable to commercial television
12 broadcast licensees with respect to advertising in conjunction
13 with children's television programming.

14 (b) MINIMUM REQUIREMENTS FOR STANDARDS.—The
15 standards required by subsection (a) shall, at a minimum and
16 in a manner consistent with the 1974 Policy Statement, re-
17 quire commercial television broadcast licensees—
18 (1) to limit the duration of advertising in chil-
19 dren's programming to not more than 9.5 minutes per
20 hour on weekends and not more than 12 minutes per
21 hour on weekdays;
22 (2) to assure an adequate separation between pro-
23 gram content and commercial messages, by use of an
24 appropriate visual, aural, or other device or separation;
25 and

1 (3) to eliminate host-selling, in practices, the pro-
2 motion of products to children within the body of the
3 program content and other practices that involve the
4 use of program characters to promote products.
5 (c) TIME FOR COMPLETION OF RULEMAKING.—The
6 Commission shall, within one hundred and twenty days after
7 the date of enactment of this Act, prescribe a final standard
8 in accordance with the requirements of subsection (b).
9 SEC. 103. DEFINITION.
10 As used in this title, the term "1974 Policy Statement"
11 means the report and policy statement entitled "Children's
12 Television Programs: Report and Policy Statement", issued
13 November 6, 1974 (39 Fed. Reg. 39396), as reconsidered
14 and reaffirmed (55 FCC 2d 691, 1975).

15 TITLE II—CHILDREN'S EDUCATIONAL
16 TELEVISION PROGRAMMING PRACTICES

17 SEC. 201. FINDINGS.
18 The Congress finds that—
19 (1) a series of expert commissions have document-
20 ed serious shortcomings in our Nation's educational
21 system which will profoundly affect both the opportuni-
22 ties available to our Nation's children, and the ability
23 of the United States to compete effectively in an inter-
24 national economy;

1 (2) by the time the average student graduates
2 from high school, that child has spent more time
3 watching television than in the classroom;
4 (3) the potential of commercial television pro-
5 gramming for making a major positive impact in im-
6 proving the education of children has been largely
7 unrealized;
8 (4) it has been clearly demonstrated that televi-
9 sion can assist children in learning important informa-
10 tion, skills, values, and behavior, while entertaining
11 them and exciting their curiosity to learn about the
12 world around them;
13 (5) commercial television is the most effective and
14 pervasive mass medium;
15 (6) as public trustees, commercial television sta-
16 tion operators have a legal obligation to serve children,
17 regardless of the contribution that may be made by
18 public television, cable television, video cassettes, or
19 other new or traditional communications media;
20 (7) commercial television has generally failed to
21 meet its obligation to provide educational and informa-
22 tional programming to children as part of its obligation
23 to serve the public interest; and
24 (8) the Federal Communications Commission has
25 declined to take effective steps to increase educational

1 and informational programming designed for children
2 on commercial television and has instead rendered
3 broadcasters' obligations to serve children vague and
4 unenforceable.

5 SEC. 202. CHILDREN'S TELEVISION PROGRAMMING.

6 Part I of title III of the Communications Act of 1934 is
7 amended by redesignating the last section as section 333 and
8 by inserting before such section the following:

9 "CHILDREN'S TELEVISION PROGRAMMING OBLIGATION

10 "SEC. 332. (a) The purposes of this section are—

11 "(1) to further use the potential of television for
12 the positive educational and informational benefit of
13 our Nation's children;

14 "(2) to encourage expanded development of pro-
15 gramming specifically designed to meet the educational
16 and informational needs of children;

17 "(3) to enforce the obligation of broadcasters to
18 meet the educational and informational needs of the
19 child audience; and

20 "(4) to establish a presumptive quantitative guide-
21 line for serving the child audience, which broadcasters
22 must meet or establish good cause for not doing so.

23 "(b) In exercising its obligation to serve the public inter-
24 est, convenience, and necessity under this title, each televi-
25 sion broadcasting station shall broadcast a substantial amount
26 of programming—

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1 "(1) which serves the educational and informa-
2 tional needs of children who are twelve years of age or
3 younger through programming that is specially de-
4 signed to meet such needs;
5 "(2) which is reasonably scheduled throughout the
6 week; and
7 "(3) which is directed to specific age groups of
8 children.
9 "(c) The Commission shall prescribe such regulations as
10 are necessary to carry out the purposes of this section. Such
11 regulations shall be initially prescribed not later than one
12 hundred and eighty days after the date of the enactment of
13 the Children's Television Education Act of 1985.
14 "(d)(1) The Commission shall designate for hearing
15 under section 309(e) any application for renewal of a license
16 by a television station, if a petition for denial is filed under
17 section 309(d)(1) that contains specific allegations of fact
18 claiming that the applicant has failed to broadcast a minimum
19 of seven hours a week, five hours of which shall occur
20 Monday through Friday, of programming that is described in
21 subsection (b) (1), (2), and (3).
22 "(2) In a hearing held pursuant to this subsection, the
23 burden of proceeding with the introduction of evidence and
24 the burden of proof shall be upon the applicant with respect

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1 to its fulfillment of its obligation to serve the child
2 audience.".

3 SEC. 203. REPORT.

4 Section 5(g) of the Communications Act of 1934 is
5 amended—

6 (1) by striking out "and" at the end of paragraph
7 (3);

8 (2) by striking out the period at the end of para-
9 graph (4) and inserting in lieu thereof a semicolon; and

10 (3) by adding at the end thereof the following:

11 "(5) list those television broadcast station licens-
12 ees whose licenses were renewed, notwithstanding fail-
13 ure to meet the level of programming set forth in sec-
14 tion 332(c)(1), and describe in detail the reasons for the
15 renewal; and

16 "(6) describe the implementation by the Commis-
17 sion of section 332, and its impact on television pro-
18 gramming designed to meet the educational and infor-
19 mational needs of children.".

20 SEC. 204. EFFECTIVE DATE.

21 This title shall take effect sixty days after the date of
22 the enactment of this Act.

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100TH CONGRESS
2D SESSION

H. R. 4125

To permit television broadcasting organizations to conduct certain activities relating to promoting the educational and informational impact of television broadcast programming designed primarily for children and to avoid abusive advertising practices during such programming.

IN THE HOUSE OF REPRESENTATIVES

MARCH 9, 1988

Mr. TAUKE (for himself, Mr. LENT, Mr. RINALDO, and Mr. ROGERS) introduced the following bill; which was referred jointly to the Committees on Energy and Commerce and the Judiciary

---

A BILL

To permit television broadcasting organizations to conduct certain activities relating to promoting the educational and informational impact of television broadcast programming designed primarily for children and to avoid abusive advertising practices during such programming.

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 "Children's Television Act
5 of 1988".

6 **SEC. 2. FINDINGS.**

7 The Congress finds that—

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1 (1) television can assist children in learning impor-
2 tant information, skills, values, and behavior, while en-
3 tertaining them and exciting their curiosity to learn
4 about the world around them;
5 (2) commercial television station operators should
6 provide educational and informational programming to
7 children as part of their obligation to serve the public
8 interest;
9 (3) commercial television station operators should
10 avoid practices in connection with children's television
11 programming and advertising that attempt to take ad-
12 vantage of this child audience;
13 (4) the Federal Communications Commission has
14 withdrawn its children's television advertising guide-
15 lines and has declined to specify children's television
16 programming guidelines; and
17 (5) congressional action to enable broadcasters to
18 voluntarily address these problems promptly and effec-
19 tively is therefor desirable.
20 SEC. 3. AMENDMENT.
21 Section 313 of the Communications Act of 1934 is
22 amended—
23 (1) by inserting before the period at the end of the
24 first sentence of subsection (a) the following: ", except

1 for activities conducted in accordance with the require-
2 ments of subsection (c)"; and
3 (2) by adding at the end thereof the following:
4 "(c)(1) A joint discussion, consideration, review, action,
5 or agreement by or among persons in the television industry
6 for the purpose of, and limited to, developing and disseminat-
7 ing voluntary guidelines designed to promote the educational
8 and informational impact of television broadcast program-
9 ming designed primarily for children, and to avoid abusive
10 advertising practices during such programming, shall not be
11 subject to the first sentence of subsection (a) of this section.
12 "(2) The exemption provided in paragraph (1) of this
13 subsection shall not apply to any joint discussion, consider-
14 ation, review, action, or agreement which results in a boycott
15 of any person.
16 "(3) The Commission may, by rule, provide for taking
17 compliance with voluntary guidelines developed and dissemi-
18 nated in accordance with paragraph (1) into account in
19 making determinations of public interest, convenience, and
20 necessity with respect to television broadcast license renew-
21 als under this title.
22 "(4) For purposes of this subsection, the term 'person in
23 the television industry' means a television network, any
24 entity which produces programming for television distribu-
25 tion, including theatrical motion pictures, the National Cable

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1 Television Association, the Association of Independent Tele-
2 vision Stations, Inc., the National Association of Broadcast-
3 ers, the Motion Picture Association of America, and each of
4 the networks' affiliate organizations, and shall include any
5 individual acting on behalf of such person.".

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Mr. MARKEY. I now recognize the gentleman from the State of Washington, Mr. Swift.

Mr. SWIFT. Mr. Chairman, I would suggest that because we have a vote on, perhaps we can recess briefly and perhaps go vote and come right back and get on with the witnesses.

I simply want to reinforce something that the chairman said.

We're here because the FCC hasn't been doing its job. It was thoroughly assisted by the Jimmy Carter Justice Department who did away with the NAB Code, which virtually eliminated the ability of the industry, the broadcasting industry, to deal with this kind of problem in concert within itself. And then the FCC walked away from its responsibilities to provide that and it let, not the broadcasters, but essentially toy manufacturers, move in and bring about the kinds of practices that are here.

It leaves the individual broadcaster in a very difficult position, particularly, let's say, if it's an independent station. And if you don't take it, the guy down the street will. Independent televisions stations are not the enormously profitable vehicles that some of their network affiliate colleagues are.

And so it really leaves the industry relatively helpless to deal with this. It leaves the Congress in a position of playing chicken with the FCC again. They're daring us to pass legislation.

Frankly, I think that this is better dealt with in regulation. But I wouldn't trust this Commission to handle it properly because they have not given us any reason to have any confidence in their ability to carry out their assigned job under the law.

So here we are today. Those broadcasters who are probably uncomfortable with this, I understand it. I hope you weren't too overjoyed with all the deregulation that went on over the past few years because it is that deregulation that has us here today talking about putting into law something that you just lived with without any problem for years and years and years, and it was a regulation that served the children of this country well. It eliminated a huge problem from you.

Because the FCC won't do its job, here we are, unfortunately.

And I yield back the balance of my time.

Mr. MARKEY. The gentleman's time has expired. I think the gentleman from Washington has made a wise suggestion.

We will take a recess right now so that the members can cast their votes and we will come back and we'll commence with the testimony from the witnesses.

We'll take a brief recess.

[Brief recess.]

Mr. MARKEY. The Chair notes the arrival of additional subcommittee members. At this time, if any of those members would seek recognition, the Chair would be happy to recognize them.

The Chair recognizes the gentleman from Texas, Mr. Bryant, for an opening statement.

Mr. BRYANT. Thank you, Mr. Chairman. I only want to say thank you for scheduling this early hearing. Inasmuch as we have been here before many times, today I will not burden the committee or participants with another opening statement, which would be much like the one I have delivered three times before.

I look forward to participating in the hearing. Thank you.

And I'd like to ask permission to insert my remarks.

Mr. MARKEY. Without objection, all members' opening statements will be included in the record.

[The prepared statements of Hon. John Bryant, Hon. Cardiss Collins, and Hon. Mickey Leland follow:]

STATEMENT OF THE HONORABLE JOHN BRYANT

March 17, 1988

CHILDREN'S TELEVISION PROGRAMMING

MR. CHAIRMAN: I commend you for calling these hearings today to discuss our latest initiatives to ensure quality children's television programming with a minimum of commercialization.

Just one month ago I, along with eight of my colleagues - including you, Mr.Chairman and Terry Bruce, who did yeoman's work on the commercialization issue, introduced legislation which combines two essential concepts - reinstatement of the previous Federal Communications Commission (FCC) limitations on commercial advertising during children's programs to 9.5 minutes per hour during weekends and 12 minutes per hour during the week; and a requirement that broadcasters air at least one hour a day -- seven hours a week -- of educational and informational programming to meet the needs of children twelve years old and younger.

Legislation to reinstate the limitation on advertising time during programming aimed at children was introduced earlier by my good friend and colleague Terry Bruce. I am proud to say I am an original co-sponsor of his bill, and I am pleased to have his strong support for this combined effort.

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For the past several years legislation to require educational and informational programming designed specifically for children has been under discussion in the Energy and Commerce Subcommittee on Telecommunications and Finance. I have been a co-sponsor of similar legislation throughout my tenure in Congress and was privileged to chair one hearing on this vitally important issue in Dallas in 1985.

One theme which has been echoed time and again by parents, educators and child development specialists is that television is a powerful force in our society -- a force most influential on our children.

It is a well-documented fact that by the time the average child has graduated from high school, he or she has spent more time in front of a television -- some 15,000 to 20,000 hours -- than in the classroom. While I do not expect television broadcasters to fulfill the educational responsibility of parents and schools, broadcasters must not forget or ignore -- even in this era of government's rush to deregulate -- that, by virtue of acceptance of a television broadcast license, commercial broadcasters agree to an array of public trust responsibilities.

Among these responsibilities, from my point of view and that of many of my colleagues, none is more important than meeting the needs of the child audience by providing an adequate level of programming for children that will contribute to shaping them into educated, productive adults.

As early as the 1970's the Federal Communications Commission took under consideration rules for children's programming, but all the FCC - the bureaucratic guardian of the public interest - offered was sympathy for those who called for better programming.

While the FCC conducted numerous inquiries and even proposed rules, it has consistently refused to implement hard and fast guidelines to accomplish the necessary reform and to serve the interests of our children.

Today's FCC prefers to rely on 'marketplace competition' rather than rules or regulations to insure that broadcasters meet their public interest obligations. In some areas, this approach is effective. But in the case of children's programming, it is clearly not.

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Where is the marketplace incentive to provide informational programming for children? Broadcasters generate profits based on the size and buying power of the audience they attract for their programs, the business of broadcasting is selling the audience to advertisers for their commercials.

While that business might be to sell 'high-dollar' items to adults with soap opera sex and vigilante violence and with toys and sugar-coated cereal to children, programs designed for children's enlightenment do not attract large audiences of viewers under twelve who have big bucks to spend.

These young viewers cannot buy the products that advertising executives want to sell most. Tragically, what deregulation and marketplace incentives have led to in terms of children's programming is just the opposite of what is needed -- program-length commercials, which are really just promotions of toys like the "Care Bears," "Gobots," and "G.I. Joe."

But the public interest, rather than commercial interests, demands informative programming that turns on a child's mind, not his or her sweet tooth.

With all this in mind, it should not really be surprising that the lack of any specific requirements for children's programming has led to a dearth of educational and informational children's programming.

The Monday through Friday requirements for a minimum of one hour a day of informational programming established by the bill we are discussing today recognizes that most young children watch television during weekday mornings and afternoons, before and after school. It is important for broadcasters to provide some worthwhile programming for children during these time frames.

I welcome the support of my colleagues for this omnibus effort to reinstate advertising minute rules for children's programs as well as to establish a standard of educational and informational programming to meet the needs of young children, and I look forward to the testimony of our illustrious witnesses.

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Opening Statement of Hon. Cardiss Collins

Today we are considering an issue which I believe is fundamental to the healthy development of our children. The Children's Television Practices Act is an effort to influence the content and frequency of programming of children. Our children are the building blocks of our future. The way their young minds are developed and shaped will have a profound effect on the way our society is conducted.

The kind of programs that the networks are currently offering are not challenging our youngsters to strive for a way to make a valuable contribution to society. Instead they encourage children to live in a fantasy land, where all things come easily, without work or effort. Values are distorted through a materialistic prism, and children are becoming viewers and victims of programs that are ½-hour-long commercials. The characters become role models to the children. But these characters are not teaching them virtues, such as the importance of education, hard work, sensitivity, empathy, and generosity. Instead they promote materialism, selfishness, fantasy, aggressiveness, violence, and offer poor role models. These vacuous shows are absorbed by our unsuspecting children, and will ultimately be reflected in their values in future situations.

Quality programs that do have educational and substantive value are being aired less frequently, and new shows are not being created. The FCC and the networks say the reason for this is that quality programs are unmarketable. At this point, we must question our own priorities as well as theirs. No competent parent would agree that their child should eat candy for every meal, just because it is more "marketable" or more appealing to the child. Nor should we settle for the FCC's weak explanation for the lack of substantive programming.

We must begin to see our children as representatives of our future society. Are we quite sure that after absorbing a steady diet of empty, counterproductive experiences, they will have the necessary knowledge and values to carry on the tradition of excellence which is our legacy to them? I believe that we cannot afford to take that chance. There is something we can do to combat this educational, emotional, and moral bankruptcy. I am a cosponsor of both Representative Bryant's and Representative Bruce's bills. I think that they are our best way to fight the decline in quality and frequency of children's programming. The FCC has a responsibility not only to regulate abuses, but to promote excellence and investment in programming. Their responsibility is primarily to the viewers and members of the public, not to the stockholders of the networks, advertisers and toy manufacturers.

It is in the best interest of the public to provide better programming to children which will inspire them to strive to continue the success upon which this country has been built.

Opening Statement of Hon. Mickey Leland

Thank you Mr. Chairman and good afternoon to our panelists. Mr. Chairman, although I am pleased that the subcommittee continues to examine the myriad of important issues surrounding children's television, I am weary of this debate—we've been debating for 5 years. My colleague from Dallas and I have been to Texas debating this issue—and it goes on and on.

Mr. Chairman, I have lost all hope that oversight activities, in and of themselves, will ever provide the necessary incentives for commercial broadcasters to affirmatively fulfill their "special obligation" to serve children as a "substantial and important" community group.

Mr. Chairman, we have been here too many times before. Each time we, as members of this subcommittee, express our dismay that licensees have not gone nearly far enough to improve the amount of programming directly designed for children, particularly programming with an educational goal. And just last September we were here to examine questionable commercial practices such as program-length commercials and program/toy tie-ins which exploit our children's innocence.

Unfortunately, when we looked to the FCC for guidelines we were told to look to the marketplace. And when the U.S. Appeals Court for the District of Columbia Circuit told the Commission to reexamine its marketplace explanation for its elimination of its commercial guidelines for children's programming, it took the Commission nearly 5 months to release a notice of inquiry on the issue.

Although commercial broadcasters have made some efforts to air responsible children's programming—one notable example is the After School Specials—they seem far too willing to retreat to the position that public television, cable television, and video cassettes should bear the lion's share of the burden of providing educational and informational children's programming.

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Our commercial broadcaster's all but tell us that they do not need to broadcast more educational and informational children's programming because there is already an abundance of such programming and the commercial marketplace is too competitive to support additional children's programming. And the advertisers get down right apoplectic at the mere thought that our children's welfare may necessitate modest advertising restrictions.

Mr. Chairman, as Members of Congress we have an obligation to protect and serve the public interest, especially the interests of our children who cannot lobby us. For that reason, I am proud to have joined my colleagues Mr. Bryant and Mr. Bruce in introducing H.R. 3966 and H.R. 3288. Although I am pleased that the FCC is reexamining its decision to repeal all commercial guidelines for children's television, albeit in response to a judicial mandate, that does not relieve us of our duty to take a leadership role in this crucially important issue.

I look forward to the testimony of our witnesses this afternoon. I am certain that it will be informative and I expect it to be provocative.

Thank you Mr. Chairman.

Mr. MARKEY. The Chair recognizes the gentleman from Iowa, Mr. Tauke.

Mr. TAUKE. Mr. Chairman, first, I want to thank you for scheduling this hearing and for including my bill, H.R. 4125, the Children's Television Act, among those to be discussed today.

The quality and quantity of children's television programming and advertising have been of concern in Congress for many years now. Many solutions have been proposed, some to ban program-length commercials, some to require the FCC to reimpose its children's advertising guidelines. Others have specified that minimum amounts of educational programming be aired by commercial TV stations.

These remedies do have an initial appeal to many individuals. However, I believe that they will involve the Congress too closely with the regulation of program content and, therefore, conflict with the spirit of the first amendment.

Some of my colleagues want to limit advertising time during children's programming. Others want to require every commercial TV station to broadcast at least 1 hour of children's educational and informational programming each day. The intentions are good; they wish to improve the programming that our children watch.

Although my colleagues are well-intentioned, they are actually, however, advocating that a small amount of tampering with the First Amendment rights of broadcasters be permitted.

Imagine the outcry if a similar proposal to control the content of newspapers would be put into effect. Suppose we said, for example, that the government would mandate that one of the first five pages in every daily newspaper in the United States should be devoted to government-preferred reading material for children or for some other group. The outraged parties would undoubtedly include many of the same people who wish to promote children's TV programming.

If the Federal Government told television stations they must broadcast a certain amount of educational programming for children, the first strand would be strung for a complex web of government rules dictating the kinds and amounts of programming needed to cure the Nation's social ills. Eventually, TV stations would have almost no discretion over their broadcast content, but would be limited to programming that fulfilled the political desires of government officials.

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With these problems in mind, I have offered another solution. In an effort to promote quality children's TV, while avoiding the dangers of Federal programming or commercial requirements, I have introduced H.R. 4125, the Children's Television Act of 1988.

The Act's premise is simple—it would permit the television networks and other producers of children's TV programming to meet and discuss children's TV. Such meetings are now forbidden by the anti-trust laws. More importantly, these discussions would result in the development by the industry of children's programming and advertising guidelines. These guidelines would not necessarily be comprehensive, but they would be addressed to particular problems and abuses which the industry wished to curtail.

The programming and advertising guidelines which result from these discussions could be followed by TV stations if they choose. The act provides that the FCC could take into account station compliance with those guidelines in deciding whether or not to renew the station's license. This would be a powerful incentive to ensure that the guidelines are complied with.

I believe this approach is a responsible one. Through it, Congress can take action on children's TV. In doing so, it would permit constructive industry action to promote children's programming and to avoid abusive advertising practices.

I do not pretend that this act is a cure-all. But I do think that it is a positive, innovative approach that will provide the means and the incentives for the industry to make improvements in the programming our children watch.

Thank you, Mr. Chairman. I look forward to today's testimony.

Mr. MARKEY. I thank the gentleman. The Chair now recognizes the Ranking Minority Member, the gentleman from New Jersey, Mr. Rinaldo.

Mr. RINALDO. Thank you very much, Mr. Chairman. This hearing was originally supposed to start this morning, then got changed to 1 p.m., then 1:30 p.m., and back to 1 p.m..

It's now quarter after 2 p.m.. And in light of that fact, I'm not going to read my entire statement, but just one little quote, and then request unanimous consent to put the entire statement into the record because I see so many people out there wearing green. I'm sure that at some point, they're going to want to leave to go to attend other festivities.

I want to thank you for holding this hearing and I hope that we can work together in a bipartisan fashion to resolve the matters addressed in all three children's TV bills before this subcommittee.

However, I do think that it's important to state this, and that is that I don't think any legislation can address the most fundamental problem in this area. And that is the responsibility of parents to supervise the programming viewed by their children.

I agree with Peggy Charren that parents should treat TV with TLC. She stated that T stands for talk, talk to children about what they see. L is for look, look at TV with children when you can. C stands for choose, choose programs for your children when they are young and with them when they are older.

I can say that works. My mother still watches TV with me.

And it's not something that we can legislate, but it's something we can encourage.

So once again, thank you, Mr. Chairman, and my statement will be put in the record as per the unanimous consent request that you granted.

Mr. MARKEY. I thank the gentleman very, very much.

When your name is Markey, you don't have to wear any green. I just want to stipulate that as we go along.

People whose names end in "O" have more problems than people whose names start with "O."

So, any other members seeking recognition? The Chair notes the presence of a member of the full committee, but not the subcommittee, Mr. Bruce of Illinois, who has one of the major pieces of legislation before the committee at this time.

Does the gentleman wish to be recognized for an opening statement?

Mr. BRUCE. I would, Mr. Chairman.

Mr. MARKEY. The Chair then recognizes the gentleman for that purpose.

Mr. BRUCE. Thank you, Mr. Chairman. Thank you, members of the committee, for allowing me to submit an opening statement. I will be brief.

The hearing revolves around the two bills that have been introduced by Mr. Bryant and myself. I am proud to say that I am an original cosponsor of his bill. I hope this hearing will bring to light some of the questionable practices that have occurred since the FCC's 1984 decision which freed broadcasters from any limitation on the number of commercial minutes that could be run in an hour. In 1984, the FCC did deregulate time limits and the industry had an opportunity to really demonstrate what they could do with that new freedom by improving children's television. Today, we look at those results.

Except for a few good programs, like "MisteRogers' Neighborhood" or "Sesame Street," no educationally thoughtful program for children exists. Instead of a free market, we have a chaotic market which is being polluted by artificiality in the form of commercial tie-ins between toy manufacturers and cartoon show producers.

These tie-ins drive out quality programming and make it impossible for a free children's TV market to work, even in an economic sense.

Michael Brockman, who oversees daytime programming for CBS, pointed out that "There's more attention being given to the best deal than to the best program."

We're all aware that there have been commercial tie-ins for years. But the problem has grown increasingly worse since the FCC repealed in 1984 a policy pertaining to programming and advertising. That's what these bills reinstate.

Since 1984, there's been a proliferation of children's shows which are really ½-hour long commercials. They have a toy star in the program. I think there's been a dramatic overcommercialization and an increase in violence and the crowding out of really quality children's television programming.

I'd like to add a note about violence. Children's TV is more violent now than it's ever been. We're all seen children's TV programs of 20 years ago, including Woody Woodpecker and Tom and

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Jerry, and they were violent programs under today's standards. They had about 20 violent acts per ½ hour.

But Mr. Tom Rodecke, a child psychiatrist at the University of Illinois, from my district, has done a study of today's cartoons. War cartoons like "G.I. Joe" have 48 violent instances. The average is 48, with "G.I. Joe" having 84 violent instances.

Last September, Dr. Lillian Beard testified before this committee that children's shows are three times more violent than prime-time shows. That winds up having at least 12,000 more acts of violence per year in children's programming time than in prime time.

All we're trying to do under my legislation and join with Mr. Bryant is to re-establish rules of advertising. These regulations have no perceptible negative effect on the ability of television stations to produce programs or toy companies to produce and sell their products. It just takes us back to the pre-1984 level.

Mr. Chairman, I think it's been a long time and the Congress should step in. We can't leave it to the market place to take care of children. I think that's one of the responsibilities of this Congress.

I applaud the chairman and the members of the committee and especially Mr. Bryant for the long-time efforts he has made on behalf of children and children's television in improving the quality of that product.

Thank you, Mr. Chairman.

Mr. MARKEY. The gentleman's time has expired.

Any other members seeking recognition?

The Chair does not note any other members seeking recognition for that purpose.

All time for opening statements by members has concluded.

Just for the information of the audience so that we can bring you up to speed on how we got to this point, there was a very important caucus of members today on acid rain, which is an issue of great importance to members of this committee and members who are interested in that. As well, Secretary Armacost from the administration was briefing at least 200 of the members, including many from this committee, at 11 a.m. this morning on the activities of the last 2 days down in the Nicaraguan-Honduran border, which many members also wanted to take advantage of.

So, in an attempt to accommodate those concerns, while at the same time trying to facilitate the witnesses who have been most gracious during all this, I think we still have prospects for a very, very productive hearing.

So let us now turn to our first panel that consists of: Mr. John Claster, who is the president of Claster Television Productions from the State of Maryland; Ms. Peggy Charren, president of Action for Children's Television, from Cambridge, Massachusetts; Dr. Ellen Wartella, who is research associate professor from the University of Illinois, representing the Society for Research in Child Development; Mr. Shaun Sheehan, who is vice president of the Tribune Broadcasting Company; and Mr. Gilbert Weil, general counsel for the Association of National Advertisers.

We will begin with Mr. Claster. We welcome you. Let us first note that we have a very rigid 5-minute opening statement rule. When the 5-minutes expires, so will your time.

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If you have anything of great importance which you wish to impress upon us during the opening statement, please edit your comments to that effect, although you will be given additional opportunities, clearly, in the cross-examination period to augment it.

So let us begin, then, with Mr. Claster, your 5 minutes.

STATEMENTS OF JOHN CLASTER, PRESIDENT, CLASTER TELEVISION, INC.; PEGGY CHARREN, PRESIDENT, ACTION FOR CHILDREN'S TELEVISION; ELLEN WARTELLA, RESEARCH ASSOCIATE PROFESSOR, INSTITUTE OF COMMUNICATIONS RESEARCH, UNIVERSITY OF ILLINOIS; SHAUN SHEEHAN, VICE PRESIDENT, TRIBUNE BROADCASTING CO.; AND GILBERT H. WEIL, GENERAL COUNSEL, ASSOCIATION OF NATIONAL ADVERTISERS, INC.

Mr. CLASTER. I'll be brief. Mr. Chairman, I would appreciate it if my full statement could be included in the record. I have some abbreviated comments I would like to make at this time.

Mr. MARKEY. I will note right now that, without objection, all the written statements of all of the witnesses at any point today will be included in the record.

Mr. CLASTER. OK. Mr. Chairman, and members of the subcommittee, my name is John Claster. I'm president of Claster Television, Inc., a wholly-owned subsidiary of Hasbro, Inc.

Let me begin by saying that I am not a communications lawyer, nor do I have expertise in the toy marketing area. However, I have been involved with children's television since 1968 and I have observed the many changes and trends in this area with interest.

Although we at Hasbro have no position to present today on the legislation currently pending before the subcommittee, we do believe there are serious misconceptions about what we do for a living and why we do it. I hope to clarify some of these issues so that subcommittee action on legislation, if any, is based on a full and complete actual record.

Hasbro was founded in 1923 by the Hassenfeld brothers, and slowly evolved into a toy company that flourished with the successes of its early products.

In 1968, the company went public as Hasbro Toys and began a process of rapid diversification that included the acquisition of Romper Room Enterprises and the Massachusetts-based Milton Bradley Company, including its Playskool division.

Unlike most toy companies, Hasbro has attempted to produce a range of products that appeal to different age groups and different interests. Some of our products are more overtly educational and developmental, such as electronic Talk and Play, while others, like Mr. Potato Head, stress the important attributes of fantasy, play and entertainment. All of our products are developed with concern for the health, safety and well-being of children.

In line with its philosophy of diversification, Hasbro entered the children's television production and distribution business in 1969, through its acquisition of Romper Room Enterprises. My family began producing Romper Room in Baltimore in 1953. In fact, my mother was the first hostess.

The show still airs today in 20 markets across the country. Since Romper Room's inception, we have taken pride in the fact that we

produce high quality, responsible and entertaining children's programming.

The secret to our success is simple—we stress the fundamentals: strong stories, compelling characters, and good production values. In this regard, successful children's programming is no different than successful adult programming.

Children's television programming is extremely expensive and fiercely competitive. The average cost of producing 65 episodes of an animated feature is between $16 and $18 million. There are approximately 15 companies currently in the business.

In response to this competitive market, Hasbro was determined that any television project in which it becomes involved must stand on its own financially. As an example of how risky programming investments can be, Hasbro financed three full-length animated feature movies in 1986. Although we had very high expectations for these movies, we lost more than $10 million on our investment.

It is extremely important to understand that when Hasbro wants to promote a toy product it does so through advertising because it is clearly the most cost effective, direct and efficient means of promoting the sale of a product.

Ideas for our shows come from many different sources. For example, G.I. Joe first was a series of reportorial cartoons during World War II. Then in the 1950's, was developed into a full-length movie. It was not until 1964 that Hasbro first manufactured G.I. Joe, the doll. Nineteen years later, in 1983, we produced a five-part miniseries and 2 years later, after much program testing, a syndicated series.

In other cases, such as My Little Pony and Transformers, we developed television shows based on what we perceived to be popular concepts with children. Both the toys and the television shows were very successful.

In contrast, Jem and Visionaries became very popular shows, while the toys were largely unsuccessful. These two shows continue to be shown, although the product lines have been discontinued.

Finally, two of our shows in Humanoids and Big Foot failed both as products and as television shows.

As we review the track record of our successes and failures, we find that if we produce a good show with strong production values and good story line, the show usually succeeds. Our programming decisions are driven by the dynamics of the television market place and produce no predictable results in a toy marketing context. We are concerned about the children who watch our programs.

Ann Selman, an MA in Education, and Dr. Robert Selman, a developmental psychologist at Harvard, both act as educational advisors on G.I. Joe and My Little Pony.

Further, Hasbro has been involved with programs that combine strong educational and informational elements with creative play and entertainment, such as Romper Room and the Great Space Coaster, both of which were recipients of ACT awards.

In addition, Hasbro underwrote the production of two 1-hour prime-time informational programs for adults with preschool children. The Hasbro Foundation, moreover, recently provided a grant to the Children's Television Workshop to help develop a television program to fight illiteracy among children.

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Finally——

Mr. MARKEY. That's it, Mr. Claster. Thank you.

Mr. CLASTER. Can I make my concluding remarks really quickly?

Mr. MARKEY. Very quickly.

Mr. CLASTER. OK.

Mr. MARKEY. Please, very quickly.

Mr. CLASTER. In closing, I would like to express my concern that some witnesses that have appeared before the subcommittee seem to be advocating regulation of program content. Although some may not like certain children's programs, content distinctions are difficult to identify and even more difficult to fairly implement and pose a threat to the First Amendment that we in the creative community prize so greatly.

It is an interesting coincidence that this hearing is occurring on the 50th anniversary of Superman. I don't know if you saw this, that it was on the cover of Time magazine. It was celebrated in a Time magazine cover story.

Superman had its beginning in the minds of two Cleveland high school students and, as Time suggests, grew into a cultural phenomenon. Superman has been the subject of a comic book, three novels, several movies and TV shows. There have been toys, costumes, watches, vitamins, commercials, a Saturday morning cartoon show and a Broadway musical.

Mr. MARKEY. Thank you, Mr. Claster.

Mr. CLASTER. Can I do one last paragraph, please?

I think it's an important point, Mr. Chairman.

Mr. MARKEY. You're not in the editing department of this television company, are you?

Mr. CLASTER. Actually, I have been difficult to edit in the past, yes, sir.

Can I just read one more paragraph?

Mr. MARKEY. All right.

Mr. CLASTER. From its creation, some critics felt that the Superman character was a bad influence on children. In the 1950's, Dr. Frederic Wertham denounced Superman in testimony before Congress, analogizing him to an SS trooper. Likewise, Marshall McLuhan claimed that Superman "reflects the strong arm totalitarian methods of the immature and barbaric mind."

Despite Wertham's and McLuhan's rather harsh perceptions, my generation not only endured its exposure to Superman, but actually benefited from the fun and excitement.

It is my hope that some of the programming from Hasbro, Inc. will leave the same positive legacy.

Thank you very much. Sorry I ran over.

[The prepared statement of Mr. Claster follows:]

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STATEMENT OF JOHN CLASTER
PRESIDENT, CLASTER TELEVISION INC.

Mr. Chairman and Members of the Subcommittee, my name is John Claster. I am President of Claster Television Inc., a wholly-owned subsidiary of Hasbro, Inc. Let me begin by saying that I am not a communications lawyer nor do I have expertise in the toy marketing area. However, I have been involved with children's television since 1968 and I have observed the many changes and trends in this area with interest. I hope that my testimony will be of assistance to the Subcommittee as it considers some very important issues relating to children's television.

Although we at Hasbro have no position to present today on the legislation currently pending before the Subcommittee, we do believe there are serious misconceptions about what we do for a living and why we do it. It is my hope to clarify some of these issues so that Subcommittee action on legislation, if any, is based on a full and complete factual record.

Background

Hasbro was founded in 1923 by two Polish immigrants, the Hassenfeld brothers, as an eight employee, family-owned business that sold textile remnants. It slowly evolved into a toy company that flourished with the successes of its early products, Mr. Potato Head®, Sno-Cones, and G.I. Joe®.

In 1968, the Hassenfeld brothers took the company public as Hasbro Toys and began a process of rapid diversification into other areas of children's entertainment. In 1969, Hasbro acquired my family's business, Romper Room Enterprises, and began its

foray into children's programming. Hasbro subsequently acquired Glenco Infant Items, Inc. in 1983, and, in 1984, the Massachusetts-based Milton Bradley Company, including its Playskool division.

Our Playskool line has become one of the most trusted and innovative sources of toys for infants, toddlers, preschoolers and school age children, and combines both learning and developmental attributes with strong play and entertainment values. Milton Bradley has been a source of games and puzzles for over 125 years. The Game of Life® (first introduced in 1860), Chutes and Ladders®, and Candy Land® have become classic games in our culture. Milton Bradley products appeal to and challenge children and adults alike.

Hasbro produces dolls such as Love-A-Bye Baby and My Little Pony® and action and adventure toys such as G.I. Joe and Transformers®, as well as the new aerobic craze in the country, Pogo-Bal®, all of which are designed to spark healthy and imaginative play among children.

Unlike most toy companies, Hasbro has attempted to produce a range of products that appeal to different age groups and different interests. Some of our products are more overtly educational and developmental, such as electronic Talk 'N Play® and Alphie II®. Other products that we manufacture, such as Definitely Dinosaurs and Mr. Potato Head, stress the important attributes of fantasy, play and entertainment. In all of our products there is an abiding concern for the health, safety and well-being of our customers, children and their parents.

In that regard, I would like to mention a few of the products that the Hasbro family of companies currently produces:

Lincoln Logs®	Transformers
Raggedy Ann®	ABC Wooden Blocks
Raggedy Andy®	Simon®
Cobbler's Bench	Memory®
Cootie®	Tinker Toys®
A Question of Scruples®	Weebles®
Chutes and Ladders	The Busy Box®
Yahtzee®	Mr. Potato Head
Snoopy Sno-Cone Machine	Operation®
Mouse Trap®	Big Ben® Puzzles
Twister®	The Game of Life
Hungry, Hungry Hippos®	G.I. Joe
Lite-Brite®	Battleship®
The Mickey Mouse Talking Phone	My Little Pony

I would venture to guess that not an individual in this room can listen to this list without remembering a pleasant incident from their childhood that involves playing with one of these products.

Hasbro and Children's Entertainment

In line with its philosophy of diversification and its goal of becoming a broad based children's entertainment company, Hasbro entered the children's television production and distribution business in 1969 through its acquisition of Romper Room Enterprises. My family began producing Romper Room in Baltimore in 1953. In fact, my mother was the first hostess. The show still airs today in 20 markets across the country. Since Romper Room's inception, my family, and our successor parent company Hasbro, have taken pride in the fact that we produce high quality, responsible and entertaining children's programming.

Since the concern of the Subcommittee focuses on children's television programming, I would like to share with you our

experience and philosophy in producing and distributing programming for children. The secret to our success is simple. We stress the fundamentals: strong stories, compelling characters, good production and excellent animation. In this regard, successful children's programming is no different than successful adult programming.

Children's television programming, within the constraints of a commercial broadcasting system and in the absence of any government subsidization, is extremely expensive and fiercely competitive. The average cost of producing 65 episodes of an animated feature is between $16 and $18 million. There are approximately 15 companies currently in the business.

In response to this competitive market, Hasbro has determined that any television, movie or video project in which it becomes involved must stand on its own financially. As an example of how risky programming investments can be, in 1986, Hasbro financed three full length feature movies, Transformers, My Little Pony, and G.I. Joe. Although we had very high expectations for these movies, we lost more than $10 million on our investment.

It is extremely important to understand that when Hasbro wants to promote a toy product it does so through advertising because it is clearly the most cost effective, direct and efficient means of promoting the sale of a product. Similarly, production of a movie or television show, given the tremendous risks and costs inherent to such an enterprise, must respond to the dynamics of the motion picture and television marketplaces in order to have any reasonable chance of success.

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In preparing for my appearance here, I tried to review our experience in the children's [illegible]it business to determine where our ideas come from a[illegible]ionship, if any, between our programming and the sale of [illegible]co toys. As you examine the examples given below, I think you'll agree our programming decisions are driven by the dynamics of the television marketplace and produce no predictable results in a toy marketing context.

Ideas for our shows come from many different sources. For example, G.I. Joe first made its appearance on the American scene in a series of reportorial cartoons during World War II. In the 1950's, G.I. Joe appeared in a full length movie. It was not until 1964 that G.I. Joe, the doll, was manufactured. Almost 20 years later, in 1983, we produced a three-part animated mini-series for television and later a syndicated series.

In other cases, such as My Little Pony and Transformers, which were very successful toys, we developed television shows based on what we perceived to be popular concepts with children. Both the toys and the television shows were very successful.

In contrast, Jem® and Visionaries are examples of shows which became very popular while the toys were largely unsuccessful. These two shows continue to be shown although the product lines have been discontinued. Finally, two of our shows, Inhumanoids and Big Foot, failed both as a product and as a television show.

As we review the track record of our successes and failures we find that if we produce a good show with strong production values and a good story line, the show usually succeeds. We

have a strong additional incentive to create good programming because a quality show offers the opportunity to move production out of first run syndication and into other media such as cable and home video.

Hasbro is in the business of producing quality programming that kids will watch, that television stations will buy and that will make a profit for our investor shareholders. We are also concerned about the children who watch our programs. Anne Selman, an M.A. in Education, and Dr. Robert Selman, a developmental psychologist specializing in children's social development at Harvard, both act as educational advisors on G.I. Joe and My Little Pony.

Further, Hasbro has been involved with programs that sought to combine strong educational and informational elements with creative play and entertainment. Examples of such programs would include Romper Room and the Great Space Coasters, both of which were recipients of ACT awards. In addition, Hasbro underwrote the production of two one-hour prime time specials, The Secret World of the Very Young, starring John Ritter, and Your Kids and the Best of Everything, starring Joan Lunden and Alan Thicke. These shows were informational programs for adults with pre-school children. The Hasbro Foundation, moreover, recently provided a grant to the Children's Television Workshop to help develop a television program to fight illiteracy among children. Finally, Hasbro has produced a series of "Mother's Minutes" providing information for young mothers, as well as public service announcements placed at the end of both Jem and G.I. Joe, using

the characters from the shows to provide safety tips for kids and other information.

We at Hasbro do not produce any programming that could be classified as a "program length commercial" based on any reasonable definition. Our programs have entertainment value separate and distinct from any related toy line. There are no advertisements for the toy line in or adjacent to the program. As far as we know, we are the only company in the industry that contractually prohibits stations from running commercials for a related toy line during our programs. In addition, there are separations and "bumpers" to highlight the change from programming to advertising.

Indeed, our experience indicates that our television programming has no predictable impact on the sale of related toys. Let me give you a concrete example of how product advertising promotes products while TV programming has no impact. My Little Pony, the product, was introduced into the market in 1983. It was a successful product for Hasbro. In fact, since its introduction almost 100 million My Little Ponies have been sold worldwide. In 1986, we were able to clear a My Little Pony animated series in first run syndication. During the first four months that the series aired, sales of My Little Pony products declined significantly, while the show was popular from its inception. In response to sagging sales, Hasbro adopted a new advertising campaign which was effective in restoring product sales. The programming was not changed and had no impact on sales.

Perhaps the best evidence that the dynamics of the television

marketplace d... our programming decisions is the fact that Hasbro has decided not to produce any new episodes for existing shows for 1988-89 because of increasing production costs and decreasing audience.

Conclusion

In closing, I would like to express my concern that some witnesses that have appeared before the Subcommittee seem to be advocating regulation of program content. Although some may not like certain children's programs, content distinctions are difficult to identify and even more difficult to fairly implement. Regulating content directly, or through the back door, poses a serious threat to the First Amendment that we in the creative community prize so greatly. We strongly urge the Subcommittee to move cautiously in this regard. Any reimposition of quantitative guidelines should not be allowed to disintegrate into a system of government censorship based on the tastes and views of the moment.

It is an interesting coincidence that this hearing is occurring on the fiftieth anniversary of the creation of a character that was celebrated last week in a Time magazine cover story, Superman. Superman had its beginning in the minds of two Cleveland high school students and, as Time suggests, grew into a cultural phenomenon. Superman has been the subject of a comic book, three novels, several movies and TV shows. There have been Superman toys, costumes, watches, vitamins and commercials. We've seen a Saturday morning cartoon show and a broadway musical.

From its creation, some critics felt that the Superman character was a bad influence on children. In the 1950's, Dr. Frederic Wertham denounced Superman in testimony before Congress, analogizing him to an SS trooper. Likewise, Marshall McLuhan claimed that Superman "reflect(s) the strong arm totalitarian methods of the immature and barbaric mind."

Despite Wertham's and McLuhan's rather harsh perceptions, my generation not only endured its exposure to Superman, but actually benefited from the fun and excitement that we experienced through him. It is my hope that some of the programming from Hasbro, Inc. will leave the same positive legacy.

Mr. MARKEY. Fine. We now turn to Ms. Peggy Charren, who is president of Action for Children's Television.

Welcome, Ms. Charren.

STATEMENT OF PEGGY CHARREN

Ms. CHARREN. I brought a tape—she says, quietly.

This is a short tape. Just about every character, robot, vehicle, weapon, castle and command center shown on this tape is featured in the programs and sold to children via television commercials.

Note the same animation, music, voice-over and logos in program segments and in commercials.

In the Transformers illustration, the commercial was actually embedded in the Transformers program, as shown here, a practice that happens often in spite of industry protestations to the contrary.

We put this together knowing that it's very confusing to see little bits of something turned into a 5-minute piece. I don't mean children's television looks exactly like this, but at least this is the other side of that nifty tape that I'm sure Jerry Claiborne has put together.

[A videotape was shown.]

Mr. MARKEY. In fact, we did ask for a compilation of these very controversial programs to be put together for the committee's purpose. So it has served the general purpose of putting this on the table for all of the members to be able to understand what it is exactly that we're talking about.

Perhaps you could characterize what it is from your perspective.

Ms. CHARREN. Just the only point I'd like to make is that I wouldn't want you to think that all program-length commercials look like that. There's the other side of it, which is the soft stuffed animal stuff, the Care Bears, My Little Pony.

We think that it's not the violence that you may have noticed. It's the commercial aspect of this that we're talking about.

Mr. MARKEY. Just tell us what is wrong with what we just saw from your perspective.

Ms. CHARREN. What's wrong with it is that it is a toy commercial. The program is so much like a toy commercial that the sophisticated characters who make up Action for Children's Television sometimes get confused in what's what.

The whole point—you have to be some kind of a naive person if you think that the point of making programs like that isn't to help sell the product. And the fact is that toy people have been quoted all over the trade press saying just that. They're not trying to hide it. They're honest. And ACT is saying that what that does is do away with the other kind of content that children are entitled to, which is editorial content.

I'd just like to go very fast through some solutions that have been proposed. This is really very short. It isn't my remarks. It's a tiny piece of them.

The first solution is the laissez-faire, if it's not broken, don't fix it solution. This is what toy companies and broadcasters seem to like, but many writers, producers, and certainly parents, do think that TV is broken, and what's broken down is the willingness of the in-

dustry to uphold the communications act by serving children and to observe the 1974 guidelines.

The second solution—there's the market place or what's good for CBS, is good for children solution. Mark Fowler and his disciples choose the market place as the panacea for all of TV's ills, except for dirty words.

The NAB likes the market place, except when it comes to must-carry regulations and a few other bottom-line hassles. But the D.C. Court of Appeals called the market place remedy and unthinkable bureaucratic conclusion, and Ad Age labelled program-length commercials a TV license to steal from children.

With the new trend of children's game shows and a revitalized Mighty Mouse, some are saying that market forces have indeed saved the day. But without regulation, toy companies and broadcasters will figure out how to combine new kinds of toys and stories into new examples of shows that so interweave commercial and program content that they can't be separated by the very separators that the FCC still mandates.

Already, one network, CBS, is negotiating with a pizza restaurant chain to turn characters in the Domino Pizza commercials into a fall, 1988 children's TV series.

That's the Noid, and I notice that in the commercial, they have introduced an old noid now with a beard and I'm sure the whole thing's going to look just like some Noidy Smurfs.

Anyway, third is self-regulation or trust-me solution. Representative Tauke's—although I'm sure he's doing it for all the right reasons—but his willingness to depend on an industry code to solve the problems of children's TV makes as little sense to me as depending on the tooth fairy to fix children's cavities.

The code, without the backing of FCC rules, will not work. The FCC is to responsible TV service what the dentist is to healthy teeth.

In the early 1970's, a third of the advertising to children was for pills that said on the bottle, by law, keep out of the reach of children, and an overdose put kids in the hospital in coma and shock. Self-regulation with the NAB code permitted the pitching of these pills directly to children. It took Federal regulatory action to stop this dangerous practice.

In the mid-1970's, the amount of advertising to children stayed down only because of regulatory action.

Last, but not least, there's the legislative, or what we need is a level playing field solution. In the competitive television environment, only regulation makes it possible for concerned corporations to perform in the public interest without economic disadvantage. That's why we have clear air and water rules.

Regulation is also necessary to guarantee that the less committed corporations obey the public trusteeship mandate of the Communications Act as Squire Rushnell, one of our favorite people, vice president for children's TV at ABC, recently stated, "When the heat was turned on in Washington, you could feel it in what broadcasters put on. And when the heat was later turned off, you were to feel that, too."

With the 1974 policy statement, CBS had 20 people doing nifty news programs for kids. When Mark Fowler said you didn't have to

do that any more, they fired them and all the programming, including "In the news," disappeared.

John Clester was an early advocate of FCC action on behalf of children. In the comments of Romper Room Enterprises to the FCC in June, 1980, he stated: "It is now time to give broadcasters direct incentives to meet the educational and informational needs of preschoolers. The Commission should reaffirm its 1974 policy statement, and strengthen it by revising the renewal form."

And as a final point, I just want to mention that we have a petition at the FCC to have them hold a major inquiry to find out just what's been going on in children's television in the commercial stations—I've never talked so fast in my life.

It's been 10 years since the Commission engaged in any overview of broadcasters' efforts in this vital area. Obviously, we think the bills are terrific, the omnibus children's bill, and so do all our members. We think that it's the most cost-effective way to educate the future citizens of this country.

We're very pleased with you all.

[The prepared statement of Ms. Charren follows:]

Remarks By
Peggy Charren
President, Action for Children's Television
at Hearings of the
Subcommittee on Telecommunications and Finance
United States House of Representatives
March 17, 1988

My remarks today will not focus on what's wrong with children's television. The problems are well-documented and are being addressed by appropriate experts testifying at these hearings.* Moreover, the views of Action for Children's Television (ACT) are already on the record in ample form.

Instead, I would like to concentrate on four solutions that have been proposed to deal with issues of overcommercialization and lack of diversity in television service to children.

First, there is the LAISSEZ-FAIRE or "If it's not broken, don't fix it!" solution.

This solution is the choice of toy companies happy with the 30-minute commercial status quo. It is endorsed by broadcasters who were ecstatic with free-up-front, toy-company-promoted programs, at least until the ratings started to slip.

But writers who have something to say instead of something to sell think kidvid is broken. And producers who try, unsuccessfully, to develop the kind of shows missing from the children's TV schedule think TV is broken. And certainly parents looking for something to turn on when they turn off the toy-dominated sales pitch think it is broken.

* See attached article, "Improving Educational and Informational Television for Children: When the Marketplace Fails," Bruce Watkins, Yale Law & Policy Review, Vol. V, No. 2, Spring/Summer 1987.

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What has manifestly broken down is the TV industry's willingness to uphold the venerable 1934 Communications Act by adequately serving children and to observe the 1974 guidelines imposed by the Federal Communications Commission on children's advertising.

Second, there is the MARKETPLACE or "What's good for CBS is good for children!" solution.

Mark Fowler and his disciples choose the marketplace as the panacea for all of TV's ills -- all except dirty words, that is.

The National Association of Broadcasters likes the marketplace, except when it comes to "must carry" regulation and a few other bottom line hassles.

But one important American institution is sending a different message. The D.C. Circuit Court of Appeals does not seem to think the marketplace is the right remedy for overcommercialization targeted to children. Its June 26, 1987 decision stated that the Commission "without explanation...has suddenly embraced what had theretofore been an unthinkable bureaucratic conclusion, that the market had, in fact, operated to restrain the commercial content of children's television."

With the new trend of children's game shows and a revitalized Mighty Mouse, some are saying that market forces have indeed saved the day. But without regulation, toy companies and broadcasters will figure out how to combine new kinds of toys and stories into new examples of shows that so interweave commercial and program content that they cannot be separated by the very disclaimers that the FCC still mandates. Already one network, CBS, is negotiating with a pizza restaurant chain to turn characters in the Domino

Pizza commercials into a children's TV series.**

Third, there is the SELF-REGULATION or "Trust me!" solution.

Representative Tauke's willingness to depend on an industry code to solve the problems of children's TV [illegible] as little sense as depending on the tooth fairy to fix chil[illegible] [illegible] code without the backing of FCC rules will not wo[illegible] [illegible] dentist is to healthy teeth what the FCC is to responsible TV service.

In the early 70s, one-third of TV advertising to children was for pills that said on the bottle by law, "Keep out of the reach of children," and in overdose, put kids in the hospital in coma and shock. Self-regulation permitted the pitching of pills directly to children. It took federal regulatory action to stop this dangerous practice.

In the mid-seventies, the amount of advertising to children was reduced because of regulatory threats and stayed down only because of regulatory action. When the FCC did away with limits, the degree of commercialization became intolerable to anyone who cares about children. If self-regulation worked, the standards and practices people at the networks and stations would have said, without an anti-trust exemption, without consulting with one another, "Hey, enough is enough!" But they didn't. And now we have more than 70 shows that unfairly commercialize children's TV.

And, last, but certainly not least, there is the LEGISLATIVE or "What we need is a level playing field!" solution.

In the competitive television environment, regulation makes

** See attached article, "CBS Plans 'Noids' Cartoon Series," New York Times, January 25, 1988.

it possible for concerned corporations to perform in the public interest without economic disadvantage. Regulation is also necessary to guarantee that the less committed corporations obey the public trusteeship mandate of the Communications Act.

As the vice-president for children's TV at ABC recently stated: "When the heat was turned on in Washington, you could feel it in what broadcasters put on. And when the heat was later turned off, you would feel that, too."***

With the 1974 Policy Statement in place at the FCC, CBS had 20 persons in its News department working on children's TV shows, including "30 Minutes," the "What's It All About" series, "Razzmatazz," a news magazine, and 14 weekend "In the News" spots. With the advent of deregulation, the 20 persons were fired, and all shows cancelled.

John Claster was an early advocate of FCC action on behalf of children. In comments on Romper Room Enterprises to the FCC in June 1980, he stated:

> It is now time to give broadcasters direct incentives to meet the educational and informational needs of pre-schoolers. The Commission should reaffirm its 1974 Policy Statement, and strengthen it by revising the renewal form...

And now, a final, most important point. ACT has petitioned the Commission to initiate promptly a Notice of Inquiry to determine the status of efforts by commercial broadcast television licensees

*** Quoted in "Aladdin's Lamp Goes Dark: The Deregulation of Children's Programming," Jane Hall, Gannett Center Journal, Vol. 2, No. 1, Winter 1988. See attached.

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to meet their obligation in the important area of children's television. We hope Congress will reinforce the need for the FCC to establish these basic findings. It has been 10 years since the Commission engaged in any overview of broadcasters' efforts in this vital public service area.

Members of Congress! None of us would be sitting here today if children's television were performing adequately, if the marketplace and self-regulation were working to limit commercial abuses targeted to children. We would not be here today if the marketplace and self-regulation worked to encourage choice and diversity, delight and diversion, and especially information and education for young audiences on TV stations licensed to serve the public interest of all our citizens.

Action for Children's Television, its members across the country, and its supporting coalition strongly endorse H.R. 3966, the Children's Television Practices Act of 1988, and we look forward to its prompt passage by members of Congress concerned about the health, education and welfare of America's most vulnerable population. There is no more cost-effective way to educate the future citizens of this country than to guarantee a TV system that takes the needs of children seriously.

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5 Minute Demonstration Tape of Children's TV

1. "Challenge of the GoBots" - Program opening

   - shows toys available for sale

   Toy company: Tonka Corporation
   Produced by: Hanna-Barbera

2. "Challenge of the GoBots" - Program closing credits (partial)

   - shows who has creative control
   - "For the Tonka Corporation"

3. "She-Ra: Princess of Power" - Program opening

   - shows toys available for sale
     - She-Ra, Crystal Castle, Spirit/Swift Wind Horse, Madame Razz, Cowl, Sword of Protection, Hordak, Shadow Weaver, Bo, Princess Glimmer, Queen Angela

   Toy company: Mattel
   Produced by: Filmation

4. "Transformers" - Program opening (partial)

   - shows toys available for sale
   - note music, animation

   Toy company: Hasbro
   Produced by: Sunbow Productions (a wholly-owned subsidiary of Griffin-Bacal, Hasbro's ad agency)

5. "Transformers" - Program segment

   - shows toys available for sale

6. Transformers toy commercial into "Transformers" program

   - uses same music, animation and voice as program
   - goes directly from toy commercial into "Transformers" program

7. "G.I. Joe: A Real American Hero" - Program opening (partial)

   - note music, animation, logo
   - shows toys available for sale

   Toy company: Hasbro
   Produced by: Sunbow Productions (a wholly-owned subsidiary of Griffin-Bacal, Hasbro's ad agency)

8. G.I. Joe toy commercial

   - uses same voice, animation, music, logo

9. "Captain Power and the Soldiers of the Future" - Program opening (partia

   - shows toys available for sale
   Toy company: Mattel
   Produced by: Landmark Entertainment

Mr. MARKEY. Thank you, Ms. Charren, for the speed of your delivery. We appreciate it.

The next witness, Dr. Ellen Wartella, who is research associate professor from the University of Illinois. She's here representing the Society for Research in Child Development.

Five minutes, please, Doctor.

STATEMENT OF ELLEN WARTELLA

Ms. WARTELLA. Thank you, Mr. Chairman.

Mr. Chairman, and members of the subcommittee, I'm a communications researcher at the University of Illinois, with postdoctoral training in child development.

For the past 15 years, my research has specialized on how children of different ages make sense of television and, specifically, how they make sense of advertising.

What I'd like to talk about today very briefly is what my concerns are as a researcher in the area of children and television regarding the overcommercialization of children's TV.

First, I'd like to talk specifically about the research on children and advertising.

Since the early 1970's, there have been a number of studies of age-related trends in children's abilities to distinguish among the different kinds of content on television. What we know from research is that children's abilities to identify, for instance, programs from advertisements and other kinds of contents on TV is the result of their general development of cognitive skills, their experience with the television as a medium that they have to come to understand, and their general knowledge of the social world.

In particular, it is during the first 7 or 8 years of life that children are acquiring an understanding of the medium of television, just as they're acquiring an understanding of the world about them.

Specifically, the research evidence having to do with how children begin to understand advertising seems clear to point out that a substantial proportion of young children, and probably a majority of those under the age of five, have difficulty consistently identifying and discriminating advertising content on television; that is, determining or discriminating advertising from other sorts of contents.

Moreover, not all program-commercial separators, which are still mandated by the FCC, aid even these young children in making these discriminations. Those separators which both explicitly, verbally and visually, identify a change in content have been shown to be most helpful.

And, most importantly, in at least one study, one by Kunkle in 1984, the practice of host-selling, of having, as we saw in the example, an advertisement for a toy like Transformers either advertently or inadvertently appearing within the context of a show for the Transformers, that practice seems to hinder, in particular, young children's abilities to identify the advertisement.

Now, just being able to discriminate programs from commercials, however, is not evidence of children's understanding of the persua-

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sive intent of advertising; that is, that advertisements are trying to sell them a product.

Various criteria have been advanced for trying to identify when children do understand such persuasive intent. It's clear that, to really understand the notion of purposive, persuasive intent, young children need to recognize the self-interest of the advertisers who are presenting the advertising; that is, they should become wary consumers, which is what we expect of adults, and no less.

At what age does such wariness seem to develop within children?

Well, there hasn't been any specific studies of these, but one can reason from general cognitive developmental theory that it is not until children, probably about the ages of 8 through 10, acquire t. ability to take the role of the other and the appropriate communications skills for such perspective-taking, can they begin to make an understanding of the advertisers' point of view in the advertising situation.

That is, I'm arguing, then, that it is only gradually that children first become aware of advertising messages as distinct from other sorts of programming and, in particular, that young children below the age of about 5 have been shown to have difficulty identifying advertising content as different from other sorts of programming. And moreover, even older children, up to the age of about 9, have been shown to have difficulty understanding the persuasive intent of such advertising.

The kind of evidence that I'm talking about here was reviewed by the FCC and the Federal Trade Commission during the 1970's and was the basis of those two regulatory Commissions' concerns about advertising on television.

Let me just give you one quote.

In the 1970's, the FCC held in 1974 that "The medium of television cannot live up to its potential in serving America's children unless individual broadcasters put profit in second place and children in first."

Moreover, the Federal Trade Commission concluded in 1981 after its investigation of children's TV advertising practices that "Child-oriented television advertising is a legitimate cause for public concern. Young children do not possess the cognitive ability to evaluate adequately child-oriented television advertising."

I know of no new scientific evidence which indicates that young children today are any less vulnerable to advertising than they were in the 1970's. Although the FTC argued then that a ban might be unworkable for all advertising, and I certainly am not favoring that——

Mr. MARKEY. Your time has expired. We'll give you an extra few seconds just to summarize your conclusions.

Ms. WARTELLA. Thank you. The nature of both the FCC and the FTC arguments about childrens' vulnerability to advertising would seem to argue in favor of limitations today on advertising during childrens' programs. Such limits as you're discussing are ones in which I would be in favor of.

[Testimony resumes on p. 219.]

[The prepared statement and attachment of Dr. Wartella follows:]

TESTIMONY SUBMITTED BY ELLEN WARTELLA, RESEARCH ASSOCIATE PROFESSOR, INSTITUTE OF COMMUNICATIONS RESEARCH, UNIVERSITY OF ILLINOIS

I am a communications researcher with postdoctoral training in child development who has specialized in research on how children of different ages make sense of television programming. Much of my research for the past fifteen years has focused on children's reactions to and understanding of television advertising. Furthermore. I have as well been examining the history of public controversies about media effects on children, including the changing nature of television programming since the 1940s. I wish to discuss both of these research streams in light of HR 3966. Specifically, my testimony will address. (1) research evidence on the fairness of advertising to young children and (2) concerns about program length commercials. In short, my goal today is to speak to issues of commercialization in children's television and the likely impact of commercialization on child viewers.

Part I.

Since the early 1970's, there have been several studies of age-related trends in children's abilities to distinguish among the different kinds of content on television. programs, station identifications, news briefs. public service announcements, promotions for other programs, and advertisements for products. Almost all of this research has focused on children's abilities to distinguish programs from commercials and to identify the persuasive intent of advertisements as distinguished from other programming. As has been noted in a variety of major reviews of this literature (e.g., one conducted by the National Science Foundation by Adler et al., 1977; and by myself, Wartella, 1980 and 1984), children suffer from two major kinds of deficiencies in their ability to make sense of advertising content. (1) many young children are unable to distinguish

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programming from advertising content and (2) a greater number of children have difficulty understanding the persuasive intent which underlies television advertising, that is, that the goal of a commercial is to sell a product.

Children's abilities to identify the various kinds of different content on television and to understand the purposes of such content develop only gradually as a result of the growth in children's general cognitive abilities, their knowledge of the social world and their experience watching television with family and friends. In particular, it is during the first seven or eight years of life that children are acquiring an understanding of the nature of the medium of television.

A number of research studies indicates that the vast majority of children younger than age five have difficulty identifying advertising content and discriminating the advertisements from the programs. Actual estimates of how many children can discriminate advertisments from commercials at various ages varies as a consequence of different measurement contexts, and verbal measures yield lower estimates of successful discrimination than do nonverbal measures of such discrimination.

For instance, Ward, Reale and Levinson (1972), Blatt, Spencer and Ward (1972), and Ward, Wackman and Wartella (1977) asked preschool children "What is a TV commercial?" and "What is the difference between a TV commercial and a TV program?" They found that the majority of young children below kindergarten or age five, showed low awareness of the differences between commercials and advertisements and had difficulty distinguishing them. They found that the preschoolers first recognized

the differences on the basis of the perceptual characteristics of the different kinds of contents (e.g, commercials are short, programs are long; or that programs and commercials have different characters on them) or on the basis of affective cues (e.g., that commercials are funnier than programs). Other research by Stutts, Vance and Huddleson (1981) found similar results with verbal measures. Of the 108 children asked to describe what a commercial is and why commercials are shown on television, the three-year olds were generally unsuccessful, whereas 11% of the five-year olds and 64% of the seven-year olds identified the selling intent of television commercials.

Critics have pointed out that reliance on such verbal measures may mask young children's discrimination abilities because they rely on the young children's rather limited verbal abilities. Thus, some studies have employed non-verbal measures to assess young children's abilities to identify advertisements and discriminate them from other programming. Dorr (1985) reviews several studies of four-to twelve-year old children's abilities to distinguish among the variety of contents on television, including advertising and programming. Importantly, these studies used several different kinds of measures, both verbal and non-verbal, including. observations of children watching tapes presenting programs, separators, and commercials and raising their hands for commercials, and actions having children retell the program story and choosing photographs from the program and from the adjacent commercials, and asking children to provide a label for a photograph of a commercial broadacast within a program segment. Dorr notes that there is considerable improvement in children's abilities to correctly identify the different programming

content as children grow older, and in particular, it is between six and eight years of age that the greatest improvement is noted. For instance, when children are asked to raise their hands when a commercial comes on, Dorr found that 39 percent of the four-year old children failed to raise their hand for a commercial compared to 18 percent of six-year olds and 18 percent of eight-year olds (N-83).

Gianinno and Zuckerman (1977) used a slightly different technique to measure children's abilities to distinguish programs from commercials. They found that only about 50 percent of the four-year old children they interviewed could, in eight of ten paired comparisons, correctly pick out a picture of a television commercial character paired with a television program character. On the other hand, nearly all of the seven-year old children they interviewed could recognize the commerical characters in all ten paired comparisons. When asked to choose the picture of a character who showed products on television, nearly all of both the four-and seven-year old subjects demonstrated at least 80 percent accuracy.

Palmer and McDowell (1979) futher examined whether commercial separators can aid young children's discrimination abilities. Sixty kindergarten and first-grade children were assigned to one of four television viewing conditions--a control group which viewed a videotape of either one of two typical Saturday morning television programs and commercials with no program/commercial separators, and three experimental groups, each utilizing each of the three networks' program /commercial separator formats. The videotape was stopped at predetermined points during the commercials and the program, and the children were asked whether what they had just seen was part of the show or part of the

commercial. First, averaging across all four groups, children correctly identified a commercial about 64% of the time when one television program was used and 55% of the time for a second television program. Secondly, although slight differences were observed in correct ability to recognize commercials across the three treatment conditions, but more importantly, the children in the control group performed as well or better than all of the other subjects. Unfortunately, the separation devices typically employed by broadcasters apparently fail to assist young child viewers in recognizing commerical content, a finding consistently corroborated by other research (Ballard-Campbell, 1983; Butter, Popovich, Stackhouse and Garner, 1981; Stutts, Vance and Huddleson, 1981).

Lastly, one study, a dissertation by Kunkle (1984) has examined the use of program-commercial separators as well as another program element, host selling, for their influence on young children's abilities to discriminate programs from commercials. He randomly assigned 72 four-and five-year old and 80 seven- and eight-year old children to one of two videotape treatment conditions: a host selling condition in which a Flintstones commerical is viewed with a Flintstones cartoon (or a Smurf commerical with a Smurf cartoon) and a non-host selling condition in which commericals for a particular character are not embedded in cartoon shows featuring that character. In addition, the videotapes included a standard network program/commercial separator.

Post-viewing measures of the children's abilities to distinguish the programs from commercials were taken in two ways. (1) children were shown pictures of parts of the TV program and a picture from the commercial and asked to order the pictures and tell what happened on the show; (2)

children were shown a picture of the commercial and directly asked whether this was part of the show, a commerical or something else. Under direct questioning, only 83 percent of the younger, four- and five-year old children were able to correctly identify the commercials compared to 91 percent of the older, seven-and eight-year old children. When the story telling task was used, 27 percent of the young children noted that the commercial photograph was not part of the program story, compared to 53 percent of the older children. Moreover, both age groups of children were affected by the host-selling practice such that those children in the host-selling condition showed lower abilities to distinguish the programs from commercials on both tasks. For instance, under direct questioning, 76 percent of the younger children in the host-selling condition corectly discriminated the programs from commercials compared to 91 percent of the younger children in the non-host-selling condition. For older, seven-and eight-year old children, the differences were that 85 percent in the host-selling conditions correctly discriminated the program from commerciala and 97 percent of the children in the non-host-selling condition did so.

Thus, the evidence seems clear that a substantial proportion of young children and probably a majority of those under the age of five have difficulty consistently discriminating between television programs and television commercials. Moreover, not all program/commercial separators aid young children in making these discriminations; those which explicitly, both verbally and visually, identify a change in content have been found to be more helpful. And most importantly, in at least one study, that of Kunkle (1984), the practice of host-selling, seems to hinder young children's abilities to identify the commercial from the

program.

Just being able to discriminate programs from commercials, however, is not evidence of the child's understanding of the persuasive intent underlying advertising, i.e., that advertisers want you to buy the product. Various criteria have been advanced regarding evidence of children's understanding of persuasive intent. For instance, Rossiter and Robertson (1974) have argued that there are a number of cognitive distinctions children must make to acquire an understanding of the purpose of commercials, in particular their persuasive intent. First, children must be able to distinguish between programs and commercials; they must recognize that commercials have a sponsor; they should realize that there is an intended audience for commercials; they should be aware of the symbolic as well as realistic nature of commercials; and lastly, they should recall personal experience in which discrepancies are discovered between the advertised product and the actual product. Using these criteria, they interviewed a sample of 389 first , third- and fifth-grade boys and found a strong age-related trend in children's comprehension of selling intent with only 53% of the first-graders having such comprehension and almost all of the fifth-graders understanding this concept.

Roberts (1982), however, has suggested a stricter standard for assessing children's understanding of persuasive intent. He argues that just understanding that commercials want someone to buy or to try a product is not sufficient evidence that a child understands the purposive persuasive appeal of advertisers. Rather he suggests that there are four attributes of commercials children need to recognize in order to

comprehend the persuasive intent of commercials: (1) that the source of commercials has other perspectives and interests than those of the receiver; (2) that the source intends to persuade; (3) that by definition persuasive messages are biased; and (4) that biased messages demand different interpretation strategies than do primarily information, education or entertainment messages. It is only when children can thus be "wary" consumers of advertising, that they can be said to be "fair partners" in the advertising process.

At what age can children demonstrate such wariness? Roberts (1982) suggests that such an approach to advertising is dependent on the growth of other cognitive abilites, in particular, the ability to take the role of the other in various social transactions. Developmental theory suggests that such an ability develops in later childhood, about ages nine or ten. As Flavell (1977) and Shantz (1975) have pointed out, below middle childhood (about ages 7 or 8) children are highly egocentric in their communication skills and have difficulty taking the perspective of another. Ward, Wackman and Wartella's (1977) research indeed found that 53% of five-and six-year olds and 41% of seven-and eight-year olds demonstrated a "low cognitive level " of understanding of the persuasive intent of the advertisements. And although one study by Donohue, Henke and Donohue (1980) which utilized a picture task did demonstrate that 80 percent of three-to-six year old children could pick out a picture of a mother and child buying cereal at a supermarket to indicate that a commercial wanted them to do that has not been replicated by two subsequent studies (Ballard-Campbell, 1983; Kunkle, 1984). Ballard-Campbell, (1983) found only 13 percent of four-year olds and 33 percent of

six-year olds chose the correct picture while Kunkle found 24 percent of four-five year olds and 30 percent of seven-eight year olds did so. Thus, there is no consistent evidence that children younger than about nine can consistently recognize the persuasive intent of advertisments.

Thus, there is evidence to suggest that children only gradually become aware of advertising messages as distinct from other sorts of programming. As reviewed above, young children, below the age of about five have been shown to have difficulty even identifying advertising content as different from other sorts of programming. Moreover, even older children, up to about age nine, have been shown to have difficulty understanding the persuasive intent of advertising messages.

The evidence reviewed here is consistent with the research evidence considered by the FCC in the mid and late 1970s. (FCC, 1974, 1980) At that time the Commission held that "the medium of television cannot live up to its potential in serving America's children unless individual broadcasters ...put profit in second place and children in first" (FCC, 1974, p. 39402). Furthermore, the Commission saw fit then to establish policies to limit advertising to children by imposing a 9 and 1/2 minute per hour during weekends and 12 minutes per hour on weekday limit on advertising during children's programming times. Moreover, the Federal Trade Commission, as well, concluded in 1981 after its investigation of children's television advertising practices that "child oriented television advertising is a legitmate cause for public concern...young children do not possess the cognitive ability to evaluate adequately child-oriented television advertising. (FTC, 1981, p. 2) I know of no new scientific evidence which indicates that young children today are any less

vulnerable to advertising then they were in the 1970's. Although the FTC argued that a ban on all advertising to children was unworkable, the nature of both the FCC and FTC arguments about children's vulnerability to advertising would seem to argue in favor of limitations on advertising during children's programs. Such limits as are being suggested in the current bill thus constitute one mechanism for protecting young children from advertising messages as much as possible.

Part II. Program Length Commercials.

As noted above, the evidence regarding young children's difficultites in identifying advertising content from other content led the FCC in 1974 to adopt a separation principle, by requiring that broadcasters (1) place audio/visual separation devices between program content and commercial breaks during children's shows, (2) by prohibiting the practice of host-selling, the practice of having program characters or hosts promote products during or adjacent to the programs featuring those characters, and (3) by prohibiting program-lenth commercials. The FCC in 1974 defined a program length commercial as content with the "dominant purpose" of product promotion and "the primary test is whether the purportedly non-commercial segment is so interwoven with, and in essence auxillary to, the sponsor's advertising...to the point that the entire program constitutes a single commercial promotion (FCC, 1974, p. 986). Although the FCC continues to require program/commercial separators and continues to ban host-selling practices, it rescinded its ban on program length commercials in 1984.

I support the current bill's attempt to have the FCC reconsider these program length commercials, for I believe they pose particular problems

for both young child viewers of such programming and for the nature of children's television programming per se.

First, as the evidence presented above demonstrates, young children have difficulty distinguishing programing from advertising content. Clearly, the ability to identify advertising content is necessary to allow children to critically examine the commercial messages. If we would like our children to recognize the self-interest of advertisers, and thus to become "wary" consumers of advertising, such critical viewing of advertising requires that children be able to at least identify advertising content and distinguish it from other programming on television. When toy characters thus appear in both advertisements for toys and for programs featuring the toys and when such advertising and programming content utilize similar characters, and often similar theme music, production formats and other visual and auditory characteristics, it is quite likely that young children will be hindered in their abilities to discriminate advertisments from programs. Indeed, as the term indicates the programming is an advertisement for the toy products featured in them. Although no research directly examines how young children interpret such toy product programs, the research by Kunkle (1984) on host-selling practices would suggest that young children may have difficulty distinguishing between commercials for toys and programs starring such toys. The separation principle, as the FCC argued in 1974, would seem to be violated by such program length commercials.

Secondly, another concern raised by such programming practices as these program length commercials is the extent to which such programs have come to dominate children's commercial television. As Englehardt (1986)

has noted in his analysis of changing content of children's television programming, program length commercials began to dominate both first run syndication products for children, and moreover, Saturday morning network fare by the 1984-85 network season, and they do so today. Moreover, as the article attached as an appendix to this testimony demonstrates, the history of television programming to children since the early 1940's demonstrates a gradual narrowing and restriction in the kinds of programs directed to children through commercial broadcasting since the early 1950's. Commercial broadcasters used to provide a variety of animated and live action programs for children during the 1950's such as puppet shows like Kukla, Fran and Ollie, and Howdy Doody; children's dramas such as My Friend Flicka and Lassie, educational programs such as Mr. Wizard and Ding Dong School; documentaries such as Watch the World and variety shows such as Small Fry Club or Disneyland. Starting in the 1960's with the rise of Saturday morning "kidvid", the range of children's programming on the commercial stations has increasingly narrowed to first, primarily cartoon programs, and since 1984, primarily toy-related cartoon programs. We no longer have regularly scheduled preschool programming provided by the networks or anywhere near the diversity of programming types available decades ago. There no longer is diversity of programming to children offered by commercial broadcasters.

Kunkle (in press) suggests good economic reasons for this dominance of program length commercials. He says they have economic advantages over non-product related programming for the broadcaster because either (1) their production costs are subsidized by the toy manufacturer whose product is featured in the program or (2) a percentage of the sales from

program-related toy products is shared with broadcasters airing the show. This latter is particularly the case in funding first-run syndication products. I might add that toy related programming would seem to fit into network programmer's beliefs about how to find successful program ideas for children. In interviews I conducted with several programmers in 1986, I consistently found that network programmers believe that to be successful children's shows need an identifiable character. Thus, in the parlance of programmers, toy products represent such an indentifiable character since owning the toy reinforces the child's interest in watching the toy characters on the program, and, alternatively, watching the program increases the child's desire for the toy.

With both economic incentives and a structure of organizational beliefs about what makes for successful programs both supporting the usefulness of program length commercials for commercial broadcasters, such programming has easily driven other kinds of programming off the commercial airwaves. My concern is that children deserve more diversity in television formats and content themes than program length commercials afford.

Thus, in conclusion, I would argue that the current Children's Television Practices bill indeed should direct the FCC to reconsider its ban on program length commercials. As Englehardt (1986) suggests, until that ban was rescinded in 1984, network programmers by and large kept such programming off of Saturday morning children's hours. Seemingly, the FCC's definition of program length commercials was adequate before 1984 to identify the programming most objectionable here. I would suggest they reimpose their earlier definitions. My concern again, is that such

programming hinders young children in their attempts to separate programs from advertising content; and moreover, such programming is further restricting the potential diversity of children's programs available on commercial stations. Where children are concerned, the FCC's current faith in the marketplace for yielding the best programming practices is clearly misplaced. The history of commerical programming to children demonstrates that only when there is a reasonable amount of regulatory activity will all children's interests be served. I believe that the current bill's reimposition of commercial limits during advertising time and request that the FCC reconsider the ban on program length commericals constitutes such reasonable regulation of children's television.

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References

Adler, R., Friedlander, B., Lesser, G., Meringoff, L., Robertson, T., Rossiter, J., and Ward, S. (1977). Research on the effects of television advertising on children: A review of the literature and recommendations for future research. Washington, D.C.: Government Printing.

Ballard-Campbell, M. (1983). Children's understanding of advertising: Behavioral assessment of three developmental skills. Unpublished doctoral dissertation, University of California, Los Angeles.

Blatt, J., Spencer, L., and Ward, S. (1972). A cognitive developmental study of children's reactions to television advertising. In G. Comstock, E. Rubinstein, and J. Murray (eds.), Television and social behavior. Vol. 4. Washington, D.C.: Government Printing.

Butter, E., Popovich, P., Stackhouse, R., and Garner, R. (1981). Discrimination of television programs and commercials by preschool children. Journal of Advertising Research, 21, pp. 53-56.

Donohue, T., Henke, L., and Donohue, W. (1980). Do kids know what TV commercials intend? Journal of Advertising Research, 20(5), pp. 51-57.

Dorr, A. (1985). Developmental changes in reaction to television content. Paper presented to the Biennial Meeting of the Society for Research in Child Development, Toronto.

Englelhardt, T. (1986). Children's television: The shortcake strategy. In T. Gitlin (ed.), Watching television. New York: Pantheon.

Federal Communications Commission (1974). Children's television programs: Report and policy statement. Federal Register, 39, pp. 39396-39409.

Federal Communications Commission. Applicability of Commission policies on program-length commercials. Federal Communications Commission Reports, 44(2d), 985-1003.

Federal Communications Commission (1980). Children's television programming and advertising practices: Notice of proposed rulemaking. Federal Register, 45, pp. 1976-1986.

Federal Trade Commission (1981). In the matter of children's advertising: FTC staff report and recommendation. Washington, D.C.: Federal Trade Commission.

Flavell, J. (1977). Cognitive development. Englewood Cliffs, N.J.: Prentice Hall.

Gianino, L.J. and Zuckerman, P.A. (1977). Measuring children's responses to television advertising. Paper presented to the annual meeting of the American Psychological Association, San Francisco.

Kunkle, D. (1984). Children's understanding of television advertising: The impact of host-selling. Unpublished doctoral dissertation, University of Southern California.

Kunkle, D. (in press). From a raised eyebrow to a turned back: Regulatory factors influencing the growth of children's product-related programming. Journal of Communication.

Palmer, E. and McDowell, C. (1979). The program commercial separators in children's television programming. Journal of Communication, 29(3), pp. 197-201.

Roberts, D. (1982). Children and commercials: Issues, evidence, interventions. In M.J.A. Howe (ed.), Learning from television: Psychological and educational issues. London: Academic Press.

Rossiter, J. and Robertson, T. (1974). Children's TV commercials: Testing the defenses. Journal of Communication, 24, pp. 137-44.

Shantz, C. (1975). The development of social cognition. In E. Heatherington (ed.), Review of child development research. Vol. 5, Chicago: University of Chicago Press.

Stutts, M.A., Vance, D., and Huddleson, S.P. (1981). Program-commercial separators in children's television: Do they help a child tell the difference between 'Bugs Bunny' and the 'Quik Rabbit'? Journal of Advertising, 10, pp. pp. 16-25.

Ward, S., Reale, G., and Levinson, D. (1972). Children's perceptions, explanations, and judgements of television advertising: A further exploration. In G. Comstock, E. Rubinstein, and J. Murray (eds.), Television and social behavior. Vol. 4. Washington, D.C.: Government Printing Office.

Ward, S., Wackman, D., and Wartella, E. (1977). How children learn to buy. Beverly Hills: Sage Publications.

Wartella, E. (1980). Individual differences in children's responses to television advertising. In E. Palmer and A. Dorr (eds.), Children and the faces of television. New York Academic Press.

Wartella, E. (1984). Cognitive and affective factors of TV advertising's influence on children. Western Journal of Speech Communication, 48 (Spring), pp. 171-183.

The Public Context of Debates about TV and Children

by Ellen Wartella

A front page story in the New York Times proclaims that "Scientific answers are now offered" to questions of how the new and radically different mass medium "really affects children and what proportion of the country's youth actually come under its influence." The Times story goes on to say that.

> Children in general are excited far more than adults by what they see, even eight times as much, in some cases; the ideas and action presented are large factors in shaping habits, and judged by numbers, the younger members of the population make up a disproportionately large share of audiences.

The medium being discussed is "movies," specifically the thrillers. However it could just as easily have been radio, television or video. The date is May 28, 1933. The date could be 1986, for concerns about the effects of media on child audiences are recurring in American history. Moreover, during the 20th century, many of the issues, actors and terms of the debate about how media influence children have been repeated from the early days of film's introduction. This paper will consider the recurring nature of these debates with a special emphasis on the ongoing debates about television's influence on children .

With the advent of each of the major electronic technologies of film, radio and television, their adoption into American society coincided with considerable public discussion and debate regarding their likely impact on audiences, in particular on youth. Davis (1965), for instance, in an analysis of popular arguments about the introduction of these three technologies, notes that the media's influence on the morality of youth was a recurring theme in popular articles discussing the likely effects of new media on children. When

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a new medium comes along--film in the teens and 20's, or radio in the early thirties or television in the early fifties--proponents point out that these media have a very strong, positive educational benefit for children. Opponents are most likely to point out the potential negative effects of the medium on children: e.g., that children spend too much time with the new medium, and the medium may have negative effects on the children's behavior. For instance, in 1936, one social scientist justified his major study of the influence of radio on children by referring to the widespread public concern about the influence of media on youth. Eisenberg wrote:

> The popularity of this new pastime (radio) among children has increased rapidly. This new invader of the privacy of the home has brought many a disturbing influence in its wake. Parents have become aware of a puzzling change in the behavior of their children. They are bewildered by a host of new problems, and find themselves unprepared, frightened, resentful, helpless.
>
> (Eisenberg, 1936, pp. 17-18)

In an earlier analysis (Wartella and Reeves, 1985), my colleague Byron Reeves and I examined the role of public concerns about new media earlier in this century in setting the social science research agenda for studies of media effects on children. The Eisenberg quote above illustrates this rather well. In this previous analysis, we argue that the advent of each new medium of film radio and television marked the beginning of an epoch of social science research focusing on the dominant medium of the day to the exclusion of studying other media children use. Moreover, the social science research topics from epoch to epoch are highly comparable.

The concerns expressed by social scientists and in popular debates about film and radio effects were present as well in the very earliest days of television's introduction into American society. In the remainder of this paper, I would like to examine this public context of debates about television in greater detail and the varying reactions of the television industry to these debates.

Early Criticism of Television (1949-1952)

In a series of newspsaper articles in the early 1950's Robert Louis Shayon referred to television as the "New Pied Piper " (Shayon, 1952). His

concerns were expressed in a variety of popular newspaper and magazine articles about television and youth which began to appear in the late 1940's. For instance an examination of the Reader's Guide to Periodical Literature for popular articles on television and children shows that until volume 16, which covers the period between May 1947 and April 1949, only 14 such articles appeared in popular periodicals indexed in the guide. On the other hand, volumes 17 and 18 (covering the period between May 1949 and March 1953) report 135 articles in the periodical literature on children and television. And the number of periodical articles on the topic continued high throughout the 1950's and has remained above 19 per year to the present.

Perhaps the best early examination of the popular public concerns about television's influence on children can be found in an early study conducted at Columbia University. Columbia University's Bureau of Applied Social Research conducted an extensive study of the future of television during the early 1950's (Siepmann, 1953; Klapper, 1953; Levin, 1953). Included in this inquiry is one of the most systematic and revealing early studies of children and television, a working paper by Joseph Klapper written in 1953. By the way, Klapper went on to be a major participant in subsequent public discussions of TV and social behavior as part of the 1972 Surgeon General's inquiry and through his position in social research for CBS. In the 1953 study, Klapper interviewed 40 opinion leaders (jurists, psychologists, children's tv producers, educators, etc.) about their attitudes toward the social issue of children and television. Moreover, he conducted content analyses of all articles published in the popular magazines between 1949-1952 for the themes of the debate regarding television's influence on children.

What is striking in reading this early analysis of public concerns about

television and children is the extent to which the issues of the debate have changed so little since the introduction of television into American society. For instance, the three major findings of the Klapper analysis are that (1) the overarching concern about television's short term impact on children stems from the amoung of time children spend with tv and the influence of the violent programming content on children. Klapper refers to this as the "time and crime" problem of TV. Forty percent of all popular magazine articles he studied focused on the time problem and 35 percent focused on the crime concern. And who was expressing these concerns? Klapper calls them the PTA groups--parents, teachers and professionals associated with adult education. These groups were writing in both women's magazines and general circulation magazines and their concerns were frequently the focus of journalistic writing about television and children. These issues set the agenda for social scientists early research on children and television as well as I have detailed elsewhere (Wartella and Reeves, 1985). (2) A second recurring theme of the early Klapper study was the desire on the part of all of the interviewees for better children's television, in particular, educational television. Thirty five percent of the magazine articles he analyzed concerned this issue. Part of the emphasis on educational television could be accounted for by the fact that public television was in its infancy in 1953. In fact, there were no educational television stations on the air until 1954, and indeed during the early 1950's public television was conceived of as an extension of educational institutions who were the early licensees. Interestingly, when Klapper interviewed the opinion leaders about the kinds of children's television they would like to see on the air, few could offer "meaningful suggestions" beyond wanting "better" programming which served the imagination

and which presented the "classics" to children. Commercial television's outstanding example which was frequently mentioned at the time as a good show was Ding Dong School This is reminiscent of current arguments for better children's TV which use Sesame Street as the model for a programming agenda. (3) Lastly, several of the psychologists, psychiatrists and educators speculated on the long-term effects of children's watching so much television. Two recurring concerns expressed by these interviewees, were related to the psychological effects of television. First, there was a predecessor to currently popularized arguments of Postman (1982) and Meyerowitz (1985), when in 1953, Klapper noted a concern that children's access to the conflicts of the adult world might have a deleterious effect on child TV viewers. The interviewees were concerned that viewing of adult TV shows might accelerate the social impact of the adult world on children and could make them either suspicious of the "deceitfulness" of adults or emulate adults at earlier ages. Secondly, as early as the first few years of television, concerned professionals raised questions about the effects of television viewing on "passivity" in children. Again, the issue for debate was premised on the notion that children who watch TV are not engaging in more active tasks such as playing outdoors, seeing friends, doing homework or reading, an argument which recurs in popular criticism today.

I have spent so much time in reviewing the debates of 1949-1953 regarding children and television in order to make several points: First, it is my thesis that the ongoing debates about television's influence on children (and earlier debates about television's influence) are part of the way our society negotiates the introduction of communication technologies. Much of the same issues are now being discussed about children's use of video, and computers.

Indeed, the impact of communication media on children may serve to deflect wider public concern about who controls and creates media in the society. When such control issues are not subject to debate--and by 1953, American television was fully entrenched as a large, corporate commercial system -children's issues are debatable.

Secondly, the recurring nature of the topics for discussion, i.e. that children spend too much time with media content which is highly violent and of questionable educational and "quality" character, underlies a fact about the nature of how media industries have programmed for child audiences. Parents and other child advocates in the society have continually shown their concern about media industries view of the child as just another member of the viewing audience. They feel that the special needs of children are not fully met. The economics of commercial television, in particular, are such that rather than any social responsibility standard determining programming for children, the need to deliver an audience to advertisers is the overriding concern.

Which leads me to my third point: one salutary effect of the recurring debates about media's influence on children is that when public concern is at its highest point media industries do respond with greater attempts to meet the needs of child audiences as child advocates would wish. It is these last two points I will examine in greater detail in the next section on changes in television programming to children since the 1950's.

Television Industry Response to Public Debates about Children and Television.

As suggested above, the public concerns about television's influence on children is in part a response to how television has programmed for children historically. That parents, educators and others have worried about the amount

of time children spend with tv is prompted by the type of programming available to child audiences. Clearly, programming to children has changed over the years since television's introduction. Although this paper will not examine the entire history of television programming for children, two periods are worthy of more detailed examination. the early to mid-1950's, called by one commentator the "halcyon days" of children's television (Melody, 1972); and the early 1970's, when public discussion had again heated up on the topic of the quality of children's television. This was the period when the Federal Communciations Commission responded to a petition from Action for Children's Television with an inquiry into the quality of children's television programming. The question to be considered here is how the television industry programmed for child audiences during these periods of vocal public debate

Melody's extensive analysis of the first twenty years or so of children's television was published in 1972. In this analysis, he argued that in the period of 1949-1952, network television was in its "promotional period," a time when it was actively seeking to promote the medium and the purchase of television sets. Moroever, children's programming during the period also reflected this network desire to attract potential audiences. A considerable amount of diverse programming was directed to children, much of it "sustaining," or paid for by the networks without advertiser sponsorship. For instance, 42 percent of all children's programs on network television in 1949 were sustaining (Melody, 1972, p. 36). And an analysis of the genres of programming available to children on network television in the period between 1950 and 1980 by Bence (Bence,1985) supports and expands on Melody's point. Bence points out that in 1950 there were 85 children's programs on network television each week. Moreover there was an average of 14 new shows each

season until 1956. During 1957 there was a decrease in the number of children's program offerings reaching a low in 1959 when there were only 25 programs offered by the networks each week.

These programs during the 1950's were diverse both in terms of the genre of programming and the times on the schedule when they could be found. For instance, during the 1950's there were puppet shows like Kukla, Fran and Ollie (NBC, 1948) and Howdy Doody (NBC, 1947), children's dramas such as My Friend Flicka (CBS, 1956), and Lassie (CBS, 1954), educational programs such as Mr. Wizard (NBC, 1951) and Ding Dong School (NBC, 1952), documentaries such as Watch the World (NBC, 1950), and variety shows such as Captain Kangaroo (CBS, 1955), Small Fry Club (Dumont, 1947), and, of course, the best known prime-time variety program for children Disneyland (ABC, 1954). Moreover, these programs could be found throughout the broadcast schedule when children were likely to be in the viewing audience: weekday mornings, late afternoon weekdays, weekend mornings, and even early prime-time evenings.

It would not be judicious to argue, however, that it was the public concern about the likely effects of television on children alone made the 1950's the "halcyon days" of lots of diverse programming for children. As Melody points out, up until about 1956, the television industry did all that it could to "sell" television to the American people. More than trying to deliver an audience to advertisers, the networks needed to develop the market for television, and as Melody (1972, p. 36) argues "specialized children's programming of high quality was viewed as a valuable stiumulus to the purchase of television sets." Throughout the 1950's public discussion about television's effect on children continued to be visible in the popular literature: Between March 1953 and February 1961, 261 articles on the topic of

children and television could be found in popoular periodicals according to the Reader's Guide. Although there was some federal government activity (Senator Kefauver held congressional hearings on juvenile deliquency in 1955 and 1956 which focused somewhat on television's influence), federal investigations into television's influence on children were not particularly heated during the 1950's. It would seem that early children's programming patterns was influenced by the economic needs of the industry coupled with visible public concern. Diverse and heavy children's programming was viewed as a reasonable programming approach for the networks.

All of this changed, however, with the conversion to a mass marketing medium, according to Melody (1972). Once the networks had a large enough audience (and by 1956, 71.8% of American households had television sets, Sterling and Haight, 1978), they shifted their interest from trying to sell television to selling audiences to advertisers, and the most attractive audiences were adults, preferably women between 18-49. The late 1950's saw the rise of advertiser's interest in mass audiences, and since children were not viewed as a likely target for advertising messages at the time, the networks moved children's programming out of the time slots (such as prime-time) where mass audiences could be reached and into time slots where "it had an advantage over other kinds of programming as an advertising vehicle" (Melody, 1972, p. 38).

The 1960's continued the trend toward fewer overall programming for children and a narrowing of both the diversity of programming genres and scheduling times. The rise of Saturday morning as "kidvid" occurs during the 1960's for a variety of reasons. children are recognized as a specialized audience for special advertisers such as toy manufacturers and cereal and

snack food companies, there is no alternatively more attractive audience watching television on Saturday mornings to be sold to advertisers than children, and there is available cheap, animated cartoon programming through such production companies as Hanna Barbera which give Saturday morning a particular kind of programming (Melody, 1972). Kidvid in the 1960's could be characterized as a Saturday morning schedule on each of the three networks of predominantly animated cartoon shows interspersed with heavy doses of advertising. For instance, according to Bence's (1985) analysis , the percentage of all children's programs available on network television which were scheduled on Saturday or Sunday mornings increased from about one third of network programming in 1960 to a peak of 72% of all children's television time in 1970. Moroever, this period corresponds to the rise in animated programs on network television. In 1960 there were 8 new or returning network animated shows on each week, 32 animated programs in 1966, and 28 programs in 1970 (Bence, 1985, figure 4). The predominance of animated Saturday morning cartoons, many of which were violent, embedded in advertisements for heavily sugared foods and toys was the focus of the next wave of major public debates about children's television in the period between 1970 and 1975.

On February 5, 1970, Action for Children's Television (ACT) a consumer activist group petitioned the Federal Communications Commission with a request that the FCC assume responsiblity in the area of children's television. Specifically, ACT recommended that (1) no sponsoring or commercials be allowed on children's programs, (2) that performers and hosts of programs be forbidden to use or sell products by brand name during children's hours, and (3) that each television station be required to provide a minimum of 14 hours per week of "quality" children's programming, divided into age-specific groupings

(preschool, primary and elementary school ages) as part of its public service presentations (see FCC, 1971). In 1971, the FCC issued a Notice of Rulemaking in the area and started a four year investigation into children's programming. In addition to ACT's active lobbying for better children's television, then FCC chairman Dean Burch attempted to persuade the networks of his concern that they improve children's television in speeches before the International Radio and Television Society in 1970 (see Broadcasting, September 21, 1970, p.20) and 1971 (see Broadcasting, September 20, 1971, p. 28). Moreover, during this period, Broadcasting magazine, an industry trade journal, disclosed that the FCC had received by July 1971 over 80,000 letters in support of the ACT petition and that Dean Burch had held "a secret meeting" earlier in the summer with network executives at which he was atempting to persuade them of the sincerity of his concern for children's programming (Broadcasting, July 19, 1971, p. 58).

Over the next few years, public interest at both the federal government level and in the popular press about the issue of children's television was realized. In 1972 the Surgeon General of the United States released a report on Television and Behavior which suggested that there may be some causal relationship between television viewing and aggressive behavior. Action For Children's Television and other consumer groups such as Robert Choate's Council on Children, Media and Merchandising publicly criticised the content of children's television and advertising, and in 1972 ACT petitioned the Federal Trade Commission to investigate children's advertising practices.

The networks' response was quick: In early 1971, each network took children's Saturday morning programming decisions out of the hands of daytime programmers and established a seperate vice president or senior executive in

charge of children's television (Broadcasting, March, 22, 1971). In January 1972, the National Association of Broadcasters, an industry self-regulatory group, released a new code for children's television which reduced the non-program content on children's programs from 16 and 1/2 minutes to first 11, and then 9 and 1/2 minutes per hour on weekends and which banned the delivery of commercials in or adjacent to children's shows by hosts or primary cartoon characters, a practice known as host-selling (NAB, 1973). In addition, programming to children responded to the mounting public pressure.

During the 1971-72 network season , substantial changes on Saturday morning were made: ABC introduced an hour long Saturday live-action educational program, Curiosity Shop, CBS intrduced a half hour adaptation of You Are There, a look at historical events through old film clips with Walter Cronkite as host, and In the News, a series of informational "drop-ins" thorughout Saturday morning. In addition both ABC and CBS announced showcase quality children's dramatic programs to be presented thorughout the year. NBC brought back Mr. Wizard and an hour-long live action educational program, Take A Giant Step . The early 1970's saw further innovations in both educational and dramatic program. e.g. ABC's Afterschool Specials were inaugurated, CBS's Fat Albert and the Cosby Kids, NBC's Project Peacock dramatic programs.

By the close of the 1970's , however, public pressure on the networks and public interest in children's television receded. No regulation had been enacted. Gone, as well, were many of the innovations in children's television. By the early 1980's the FCC had made it clear it would not regulate children's television, public discussion of the topic ebbs and flows but has not returned to the heated voices of the early 1970's, and the networks are now in competition with first-run syndicators for both child audiences and advertisers

interested in reaching children. We have a very different market for children's television today. Yet, many of the same concerns about quality children's programming and the nature of advertising to children are still part of the public discussions about children as indicated in the 1985 Children's Television Education Act currently being considered in Congress.

My argument then is that public debates about media's influence on children are recurring in the nation's history and reside in wider concerns about the adoption of new communication technologies into American society. In particular, however, the recurring nature of debates about television's influence on children since the earliest days of the medium betoken the fact that children are and have been very heavy users of television, and much or most of what they see does not address the specific needs of the child audience. For the media industry, and specifically television programmers, the child audience is just another audience segment to be delivered to advertisers. Appeals to social responsibility, I believe, are only effective when public pressure, best evidenced by activity in Washington, is brought to bear on programming policy. Thus, I believe that the public context in many ways does set the agenda for initiatives in programming for children and has done so historically.

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REFERENCES

1. Bence, P.J. (1985) From Howdy Doody to the Smurf's: A Critical Model for Interpreting the History of children's Network television. Paper presented to the "Television : Issues for the Industry" conference at Hofstra University, November 19, 1985.

2. Davis, R. (1965) Response to Innovation: A Study of Popular Arguments About New Mass Media. Unpublished PhD dissertation, University of Iowa.

3. Eisenberg, A.L. (1936) Children and Radio Programs. New York. Columbia University Press.

4. Federal Communications Commission (1971) Notice of Inquiry and Notice of Proposed Rulemaking. docket number 19142.

5. Klapper, J. (1953) Children and Television. A Review of Socially Prevalent Concerns. Unpublished paper, Columbia University's Bureau of Applied Social Research. Document 3B-0482-2.

6. Levin, H.J. (1953) New York State Television Commission: A Case Study of the Use of Research by a Public Commission. Unpublished paper, Columbia University's Bureau of Applied Social Research. Document number B-0482-7.

7 Melody, W (1972) Children and Television: The Economics of Exploitation New Haven, Conn.: Yale University Press.

8. Meyerowitz, J. (1985) No Sense of Place. New York: Oxford University Press.

9. Postman, N. (1982) The Disappearance of Childhood. New York. Delacorte.

10. Siepmann, C. (1953) Collection and Analysis of Prevailing Criticisms of Television Programming. Unpublished paper, Columbia University's Bureau of Applied Social Research. Document number B-0482-4.

11. Sterling, C.H. and Haight, T.R. (1978) The Mass Media: Aspen Institute Guide to Communication Industry Trends. New York: Praeger.

12. Wartella, E. and Reeves, B. (1985) "Historical Trends in Research on Children and the Media. 1900-1960," Journal of Communication, 35.2 (Spring), pp. 118-133.

Mr. MARKEY. Thank you very much. Our next witness is Mr. Shaun Sheehan, who is vice president here in Washington of the Tribune Broadcasting Company.

Welcome.

STATEMENT OF SHAUN SHEEHAN

Mr. SHEEHAN. Thank you, Mr. Chairman. As you are aware, the INTV spokesperson from Spokane, Washington, was unable to make the hearing. I apologize for INTV and appreciate your courtesy in allowing me to substitute.

I have no opening statement, which I'm sure relieves you to a certain extent. I would like to say that my company is one of the founders of the INTV, as well as a founder of the NAB. We operate six independent major market television stations.

At present, our New York station and our Chicago stations, WPIX and WGN, respectively, are broadcasting live the St. Patrick's Day parades. Our station in Los Angeles, KTLA, is the first station west of the Mississippi, and our station in Denver is the first station in Denver.

I've grappled with this issue for 11 years. First, for 8 years, as you may be aware, I ran the public affairs department at the NAB. For the last 2 years, I've had the opportunity to represent the Tribune Company. I'm hoping that within the discussion here today, I can broaden the perspective and add, as a broadcast executive, some meaningful comments to the record.

It strikes me, first off, that anything you look at in television right now, especially as it pertains to children, that the core and most important element is what is available by video in the home market? To attach limitations or strictures on a particular station could prove limiting. What's more important to the youngsters in our society, do they have available ample programming?

So I would hope that as you look into this issue, you will consider the panoply of options that are open.

Second, it strikes me that the various bills that you have before you all look at a quantitative approach to, I think, what is perceived to be a qualitative problem.

I would ask you to think through—I was listening very closely to your opening statement. Does commercial time limitations really address the types of commercial messages that you specifically were citing, vis-a-vis if you had commercial time limitations and it was for encyclopedias, school aids, et cetera, would commercial time limitations really be the issue?

With that, I hope, once again—thank you for inviting me and I hope I can add something to the discussion. It's a very important subject.

[Testimony resumes on p. 231.]

[The prepared statement of Robert J. Hamacher follows:]

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Statement of

ROBERT J. HAMACHER

President and General Manager

KAYU-TV, Spokane, WA.

Good morning Mr. Chairman and Members of the Subcommittee. My name is Bob Hamacher and I am President and General Manager of KAYU -- a UHF Independent television station in Spokane, Washington. I am also a member of the Board of Directors of the Association of Independent Television Stations -- INTV. I am pleased to have the opportunity to appear before you to discuss H.R. 3966, the "Children's Television Practices Act of 1988."

The concerns that obviously underlie this legislation are extremely important to me both as a parent of two children and as the manager of a station actively seeking to attract young viewers. While balancing the responsibilities of both these roles may require special attention, the two are not mutually inconsistent. In the time available to me today, I'd like to talk about the role of Independent television in children's programming, some of the specific practices I have instituted at KAYU, and then about several features of the bill before you.

I would like to start by observing that substantial progress has been made in the area of children's television, and that Independent stations deserve much of the credit. In 1974, the FCC released its landmark report on the status of children's television. At that time, the Commission focused primarily on the need to increase the amount of programming designed for and directed at children. I don't think anyone would argue that quantity is a problem today. Independent stations, on the average, provide far more children's programming than do the network affiliated stations. In 1976 there were only 76 Independent stations; today there are over 300. As a consequence of this growth, the quantity and variety of programming

for kids is at an all time high. And unlike cable or VCR's, we provide this programming to all Americans free of charge. It's important to remember that because of the growth of Independent television and its unique role in providing children's programming, public policymakers now have the luxury of moving from the issue of program quantity to concerns over program quality.

Obviously, Independent television stations do not devote major portions of their programming day to children's programming merely because we are altruistic. It has to do with survival as well. To compete with the entrenched network affiliates, Independents rely on a strategy of counter-programming. Weekdays the networks target adults in the morning with news and talk, and in the afternoon soaps. That leaves kids as the big, unserved market, and the obvious opportunity for the Independent stations to attract a substantial audience.

That we have been able to step in and serve this market has benefited both the children, who have a far, far wider choice of programming available free of charge, and the Independent stations. The weekday afternoon kid's block is an integral part of the revenue base for most Independents -- certainly for KAYU. I am pleased to note that in H.R. 3966, you recognize the necessity of commercial support for the continued supply of children's programming on free TV.

At the same time, as Independent broadcasters, we recognize that the more we seek to program for children, the greater our responsibility to see that we do not abuse the special relationship we are trying to develop. At KAYU, I personally review everything

that goes out over the air during our kid's block. But even though I think I have pretty good judgment, I still rely on a family psychologist for advice. We don't have one as a full time employee, but we do work with the best family psychologist in Spokane. Typically I'll ask him to stop by the studio on his way home from the office to review programs, commercials or promotional material. Let me give you an example of the type of advice he gives me.

I frequently seek advice on commercial suitability. Commercials can have an effect on children as great as the effect of the programs we run. A single product may have many versions of a commercial produced -- all selling the same product. Some versions may be more suitable for children than others.

We don't have hard set commercial standards at KAYU, we have to review all children's commercials and programming on a case by case basis. There is something new coming at us weekly. Movie trailers rated PG don't help! They can be worse than our R movie trailers. We have to police ourselves, and we do, and I wish we'd get credit for it.

I also wish we broadcasters would get some credit for all the good things we do. Some people have the impression that kids programming is nothing but a sea of toy ads. Sure, in the last quarter of the year -- in advance of Christmas -- the toy companies are heavy advertisers. But for the remaining 75% of the year, you'll find we run a large number of informational public service announcements directed at young people. I personally am impressed with the production quality and effectiveness of these messages, so we give them a lot of play. As I say, I just wish you would remember

those positive contributions local broadcasters make instead of focusing narrowly on those things you don't like.

The point is, I care about what we broadcast to the kids. I've turned down commercials and programs, even though that cost me a lot of money, because they didn't measure up to the standards we've set at KAYU. But even if I didn't have this personal commitment, it's just good business to be careful and selective about what you broadcast. After the license itself, nothing is more valuable than the loyalty and good will of your viewers. You abuse that at your own risk. Some people think that during the kid's time block we broadcast to a bunch of unsupervised couch potatoes. Wrong. When we've inadvertantly run something that offended some parents, we heard about it right away. They complained to other parents and even to some of the local businesses who advertise on KAYU. We got the message loud and clear.

Equally important, the kids themselves let us know when we're off-base. They turn the channel or they turn off the set. As an industry, we've seen a serious erosion in the children's audience over the past several years. That is very bad for business and a pretty good indication that we were doing something wrong. Because of the importance of children's television to the Independents, INTV commissioned an independent research firm to conduct interviews with 502 kids, ages 6 - 11, and their mothers. The preliminary results were presented at our convention this past January to a standing-room only crowd. While I won't go into all the details here, the message was pretty clear. Children have gotten much more sophisticated and selective. They can spot poor quality animation

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or weak plot lines. They demand more accurate targeting for different age groups. Shows that were popular several years ago are no longer working. Many programs Members of this Subcommittee have objected to -- those based on toys -- have completely failed to attract an audience.

In short, kids will not sit and watch just anything. They have tastes, they have opinions, and they exercise them. It also means a lot of stations and program producers guessed wrong. Many stations are stuck with contracts for programs that aren't working. The advertising market has been soft for several years now, so stations have the added problem that the weak demand is not generating the revenues necessary to purchase a lot of new, different programming. This is a challenge for Independent stations, but one we will have to lick if we want to win back the kids audience. I would observe that this harsh economic reality is probably in stark contrast to the perception of many, that Independents are earning obscene profits on kids programming and can therefore easily afford to finance lots of expensive new, not-for-profit programming.

Let me turn my attention to H.R. 3966. The bill has three principal components: 1) Imposition of commercial time limits in children's programming consisting of 9½ minutes per hour on weekends and 12 minutes on weekdays; 2) Instructing the FCC to define and prohibit what are commonly called "program length commercials"; and 3) Requiring all commercial television stations to program at least one hour a day of educational and informational programming directed at children.

Commercial Time Limits: The 9½ - 12 minute commercial time

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limitations were the levels set in the NAB television code -- a code the Justice Department and the courts forced the NAB to disband in 1982 on the grounds it constituted a restraint of trade. Although the broadcasters and the Congress wanted to guard against over-commercialization in children's programming, the Justice Department apparently decided it was all a clever guise to drive up advertising rates by restricting the number of commercials that could be broadcast. Contrary to the common wisdom, the FCC never formally adopted these limitations in a rule. Instead, they appeared only on the license renewal form where stations were asked to identify those instances where their commercial load in children's programming had exceeded the levels recommended in the NAB Code. When the FCC voted in 1984 to remove a number of rules and guidelines governing television stations, it was not at all clear whether they intended to repeal the renewal form questions on children's commercial practices as well. The broadcasters had not asked that they be repealed, and, in fact, we had to formally ask the FCC if it had done so as part of its deregulation order. Therefore, I hope no one on this subcommittee believes the broadcasters were responsible for the removal of the commercialization standards.

On the other hand, the evidence I am aware of subsequent to the repeal indicates that a substantial majority of broadcasters have not abused their new freedom. The survey conducted by the NAB for inclusion in its formal comments in the children's television proceeding at the FCC supports the view that stations' average commercial load during children's programming is within the 9½ to 12 minute standard. It is certainly true with KAYU. Therefore, one might

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ask if this portion of H.R. 3966 is merely a solution in search of a problem.

The INTV Board of Directors discussed the commercial limitations at its last meeting. Although it was not felt that a problem yet existed, the Board was cognizant of the potential for abuse. However, we believe that where possible, industry self-regulation is preferable to government intervention. Were it not for the Justice Department and the federal courts, the very successful commercial time limitations voluntarily adopted by the broadcasters would still be in effect and this would be a non-issue. The ACT appeal of the Commission's deregulation order sought a return to the status quo prior to the order. That was merely a reference to the now-defunct NAB Code standards.

Therefore, the INTV Board took the position that the most appropriate governmental response at this point in time was to authorize industry self-regulation. This in turn, would first require a narrow antitrust exemption to allow the broadcasters to re-adopt commercial time limitation for children's programming. If, after this step was taken, industry self-regulation did not work out, the Commission or the Congress could take formal action. I appreciate that this subcommittee does not have the jurisdiction to initiate an antitrust exemption, but I would think your collective recommendation would carry a great deal of weight with the Judiciary Committee. I understand that Congressman Tauke has introduced legislation along this line, and we are fully supportive of his efforts.

Commercial Content In Programming: The second major feature of H.R. 3966 is to require the FCC to define what is commonly called

a "program length commercial." In conjunction with the imposition of the 9½ - 12 minute commercial limitations, a "program length commercial" would, by definition, cause a station to exceed those limitations and therefore could not be carried. I am certainly not unsympathetic to this objective, at least in theory. My problem is that I cannot imagine how a definition can be written that is clear, unambiguous, and does not end up banning any program whose characters are also available in toy stores.

Please understand my position as an operator: I don't want another situation like the FCC's recent ruling on obscenity where you are never sure when you're being naughty or nice. I don't want my license jeopardized by some definition so fluffy you have no reasonable way of knowing before the fact whether you are running a 22½ minute commercial or a 22½ minute kid's program.

However, just because I cannot imagine how a definition can be written that is on the one hand clear and on the other hand does not impose a wholesale ban on any TV program whose characters may also appear on a kid's lunch box, doesn't mean that it can't be done. We will therefore not prejudge this issue. But before the Congress orders the FCC to adopt a rule, it would be far more prudent to explore, very seriously, if it is really possible to accomplish what you intend.

The final provision of this bill would mandate each station carry an hour a day of "educational and informational" programming for children. Once again, who can be unsympathetic with the objective? The video medium can be an extremely effective teaching tool as schools everywhere are discovering. The problem I have with the

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requirement is that the bill only goes half way: it mandates we provide the program, but it does not mandate the kids watch it. I'm not being facetious.

Independents schedule their kids programming the latter part of weekday afternoons -- to catch the kids when they get home from school. My kids -- and all the other kids I know -- are delighted to be out of school. They want to relax, to have fun. God knows, I have trouble getting them to watch pure entertainment programs. Now I'm supposed to extend their school day with another hour of educational programming.

Beyond that, I don't know what is meant by "educational and informational." There's a hot new kid's quiz show called "Double Dare" that arguably is very effective in teaching kids new facts. However, since no one would call the adult quiz shows like "Wheel of Fortune" educational, how could I have any confidence that one for kids would count toward my one hour a day? I guess the programming czar at the FCC -- the one who defines program length commercials -- would have to rule on a case-by-case basis.

I can't help but feel this requirement is really meant to be punative. You know, the "broadcasters make obscene profits showing bad kids shows, we'll punish them by making them put on a hour of good shows even if no one will watch." Well, I for one don't make obscene profits on my kids shows, and I don't think they are bad for kids. Second, if stations are forced to provide educational programming and can't attract an audience, all you're going to end up with is quantity, no quality. I can envision myself sitting on a set, a single remote camera aimed at me as I read selections

from the World Book encyclopedia. That would be educational. Nobody would watch it, but at least it's a lot less expensive than buying a fancy show nobody watches either.

My point is that responsible broadcasters are not out to poison the minds of the nation's children. Most of us have children ourselves and don't air things we would not want our own kids to watch. Contrary to the rhetoric, I believe there is a lot of good kids programming in the market today. If kids will watch educational and informational programming over entertainment shows, great! The Independents, in conjunction with the program producers, will provide them.

Let me summarize, Mr. Chairman. INTV has tried to remain reasonable and flexible in our response to this legislation. We have urged enactment of an antitrust exemption so broadcasters could police themselves to guard against the over-commercialization of children's television. We have said that we don't know how a rule banning "program length commercials" could be written so as not to throw the baby out with the bath water. But we have not rejected the concept, only questioned its ability to be executed. Finally, we have opposed an arbitrary, mandatory hour-a-day of educational and informational programming for the reasons I just enumerated; but here, too, we are not rejecting the notion that broadcasters need to educate and inform children, not just entertain them.

But let me tell you what really bothers me. You all know the trouble Independent stations have been having with cable in the face of the Cable Deregulation Act of 1984 and the loss of must-carry. Independent stations are being denied carriage, being dropped, or having their channels shifted to the cable Siberia. A lot of Independent

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stations -- stations which provide all of your constituents with free television service -- are hurting a great deal.

Yet when I look at H.R. 3966, I see a bill which is highly critical of local stations, and one which could impose substantial financial burdens on many. But it is absolutely, completely silent on the subject of cable. The bill says that Bob Hamacher could be in deep trouble if he runs 12½ minutes of commercials during a hour of kid's programming, but Nickelodeon on cable could in theory, run 59 minutes an hour without a worry. It says that KAYU may lose its license if it accidentally runs what somebody thinks is a program length commercial, but cable can fill every channel with non-stop toy ads and that's OK with the Congress. I've heard the argument that broadcasters need to be regulated since we use spectrum. Well, I want to tell you that TCI or ATC use many times more spectrum than KAYU in their CARS microwave and satellite transponders, so that argument doesn't wash.

One final observation. Over the next week, I'd like to ask that all of you watch some children's programming carried by the local TV stations, the Independents and the networks alike. Then, if you have cable, watch MTV. MTV is the cable rock video channel that appeals primarily to girls aged 9 - 12. Kids, in other words. Watch MTV. What you will see is virtual depravity on demand -- hedonism, sex and the glorification of the drug culture. And, MTV's biggest audience is pre-teens. After you've watched local, free TV and then watched MTV, ask yourself why H.R. 3966 does not apply to cable.

Thank you for giving me the opportunity to appear before you today.

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Mr. MARKEY. Thank you. And we appreciate, Mr. Sheehan, your willingness to pinch-hit on a short notice.

Our final witness in the opening panel is Mr. Gilbert Weil, who is general counsel of the Association of National Advertisers.

STATEMENT OF GILBERT H. WEIL

Mr. WEIL. Thank you, Mr. Chairman.

The Association of National Advertisers is a trade association and it represents national and regional advertisers. Its members collectively account for over three-fourths of all such advertising in the United States.

We deeply appreciate this opportunity to address you.

It has been observed that those who cannot remember the past are condemned to repeat it.

I offer you two documents that illuminate a most pertinent past, which I respectfully submit it would be uncondonable to forget. One is from the Congress itself, section 11(a)(1) of the Federal Trade Commission Improvements Act of 1980. The other is the decision of the Federal Trade Commission itself, terminating its Children's Television Advertising Trade Regulation Rule-making Proceeding.

That proceeding was stimulated by the same anti-children's-television-advertising contentions that proponents of H.R. 3288 and 3966 now regurgitate: a child's purported inability to comprehend and to understand the selling intent of TV commercials.

After an unforgivable waste of time and money, public and private, Congress thankfully intervened, in its 1980 FTC Improvements Act, to forbid the Commission to go further with its proceeding on any basis other than deception.

That was a wise decision, indeed, for it honored First Amendment law, as pronounced by the Supreme Court, that truthful advertising for a lawful product or service cannot be restricted, except under certain specific and stringent conditions. And with the burden of proving fulfillment of those conditions resting heavily on the shoulders of the government.

With that imperative upon it, the Commission decided the game wasn't worth the candle, and simply gave up.

A reason the Commission gave was, and I quote, "In addition to our concern about the likelihood of resolving the factual issues necessary for consideration of a trade regulation rule, we question the availability of an effective remedy that can be justified on both legal and policy grounds. The staff has suggested that the only effective remedy for the problems allegedly posed by child-oriented television advertising would be a ban on all advertisements aimed at young children, but concludes that such a remedy could not be implemented as a practical matter since its coverage would be both over-and under-inclusive."

The shaft of that observation pierces through to the heart of your hearing, for the true target of the supporters of H.R. 3288 and H.R. 3966 is not the amount of time allowed to child-oriented commercials, but rather their orientation to children regardless of time.

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Whatever qualitative harm such commercials supposedly would have if occupying more than 9.5 minutes or 12 minutes per hour, they would have within those minutes.

As the FTC remarked, if a remedy were called for, it could be effective only as a total ban; which is what the activist-supporters of the bills really want and, if partially successful now, can be expected to go for next.

This has constitutional significance. Given that extended time for the commercials does not convert them from truthful to deceptive, restrictive legislation cannot meet the Supreme Court's conditions for constitutionality, which, as you will recall, are that the restriction must be based upon a substantial governmental interest, and must be such as to directly advance that interest, with the least possible abridgement of the commercial speech.

If there were a proven substantial governmental interest in prohibiting child-oriented TV commercials exceeding stated time limits, it is difficult to discern what it might be that would not exist as well for less than those limits; and if that is so, then how would anything short of a total forbiddance directly advance such a governmental interest?

After its painful and expensive education, the FTC threw up its hands on that one.

I suspect that after paying heed to that history, your conscientious committee will not deem it the better part of wisdom to challenge the First Amendment by enacting the restrictions of H.R. 3288 and 3966.

Finally, we oppose conferring upon broadcasters, through H.R. 4125, a license to collude. That is simply a back-door device for delegating to them authority to administer a legislative policy of First Amendment transgression.

Mr. Chairman, we have submitted to the FCC a statement going into other details involved here as well. We ask your permission to submit it to your committee as part of the record.

Thank you very much.

[Testimony resumes on p. 245.]

[Attachments to the prepared statement of Mr. Weil follow:]

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COMMISSION RULEMAKINGS RELATING TO CHILDREN'S ADVERTISING; PUBLICATION OF TEXT OF PROPOSED RULES

SEC. 11. (a)(1) Section 18 of the Federal Trade Commission Act (15 U.S.C. 57a) is amended by adding at the end thereof the following new subsection:

"(i) The Commission shall not have any authority to promulgate any rule in the children's advertising proceeding pending on the date of the enactment of the Federal Trade Commission Improvements Act of 1980 or in any substantially similar proceeding on the basis of a determination by the Commission that such advertising constitutes an unfair act or practice in or affecting commerce.".

(2) Section 18(a)(1) of the Federal Trade Commission Act (15 U.S.C. 57a(a)(1)) is amended by striking out "The" and inserting in lieu thereof "Except as provided in subsection (i), the".

(3) Section 18(b)(1)(A) of the Federal Trade Commission Act, as so redesignated in section 8(a), is amended by inserting after "particularity" the following: "the text of the rule, including any alternatives, which the Commission proposes to promulgate, and".

(b) The Federal Trade Commission shall not have any authority to use any funds which are authorized to be appropriated to carry out the Federal Trade Commission Act (15 U.S.C. 41 et seq.) for fiscal year 1980, 1981, or 1982, under section 24 of such Act, as amended by section 17 and as so redesignated in section 13, for the purpose of initiating any new rulemaking proceeding under section 18 of such Act which is intended to result in, or which may result in, the promulgation of any rule by the Commission which prohibits or otherwise regulates any commercial advertising on the basis of a determination by the Commission that such commercial advertising constitutes an unfair act or practice in or affecting commerce.

(c) The amendments made in subsection (a) shall take effect on the date of the enactment of this Act. The children's advertising proceeding pending on the date of the enactment of this Act shall not proceed further until such time as the Commission has complied with section 18(b)(1)(A) of the Federal Trade Commission Act, as amended by subsection (a)(3) and as so redesignated in section 8(a). In any such further proceeding, interested parties shall be given a reasonable opportunity to present their views in accordance with section 18(b)(1)(B) of the Federal Trade Commission Act, as so redesignated in section 8(a), section 18(b)(1)(C) of such Act, as so redesignated in section 8(a), and section 18(c) of such Act (15 U.S.C. 57a(c)).

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FEDERAL TRADE COMMISSION

16 CFR 461

Children's Advertising

AGENCY: Federal Trade Commission.

ACTION: Termination of Rulemaking Proceeding.

SUMMARY: The Federal Trade Commission (FTC) has terminated its rulemaking concerning children's television advertising (TRR No. 215-60). 43 FR 17967 (April 27, 1978).

FOR FURTHER INFORMATION CONTACT: Wallace S. Snyder, Assistant Director or Judith F. Wilkenfeld, Bureau of Consumer Protection, Federal Trade Commission, Washington, D.C. 20580 (Telephone (202) 724-1499 and (202) 724-1467 respectively).

SUPPLEMENTARY INFORMATION: This rulemaking proceeding was initiated in response to petitions filed in 1977 by Action for Children's Television (ACT) and Center for Science in the Public Interest (CSPI), and a third petition filed in 1978 by Consumers Union of the United States, Inc. (CU) and Committee on Children's Television, Inc. (CCT). The ACT and CSPI petitions requested rulemaking to regulate television advertising for candy and sugared food products directed to children. The CU and CCT petition sought rulemaking to regulate all television advertising oriented to young children.

In response to the petitions, staff conducted an investigation and, in February 1978, submitted a report to the Commission. That report concluded there was sufficient evidence to suggest that both (1) the televised advertising of any product directed to children too young to understand the selling purpose of, or otherwise comprehend or evaluate commercials and (2) the televised advertising of sugared products to children of all ages may be unfair and deceptive within the meaning of section 5 of the FTC Act, thus requiring an appropriate remedy.

On April 27, 1978, the Commission issued a Notice of Proposed Rulemaking (NPRM) declaring its intent to hold a comprehensive rulemaking proceeding addressing the problems posed by television advertising directed to children. The Notice did not propose a specific text of a rule. Instead, the Commission sought "comment on the advisability and manner of implementation of a rule which would include the following three elements" recommended at that point by the staff:

* * * (a) Ban all televised advertising for any product which is directed to, or seen by, audiences composed of a significant proportion of children who are too young to understand the selling purpose of or otherwise comprehend or evaluate the advertising;

(b) Ban televised advertising for sugared food products directed to, or seen by, audiences composed of a significant proportion of which products poses the most serious dental health risks;

(c) Require televised advertising for sugared food products not included in Paragraph (b), which is directed to, or seen by, audiences composed of a significant proportion of older children, to be balanced by nutritional and/or health disclosures funded by advertisers. * * *

In addition, the Commission sought comment on all of the remedial possibilities enumerated in the Staff Report. In the request for these comments, the Commission made specific reference to the following four possibilities:

* * * 1. Affirmative disclosures located in the body of advertisements for highly cariogenic products directed to children.

2. Affirmative disclosures and nutritional information contained in separate advertisements, funded by advertisers of highly cariogenic products advertised to children.

3. Limitations upon particular advertising messages used and/or techniques used to advertise to very young children, or to advertise highly cariogenic products to all children.

4. Limitations upon the number and frequency of advertisements directed at very young children; limitations upon the number and frequency of all advertisements of highly cariogenic products directed at all children. * * *

Finally, the Commission posed 18 general questions on issues of law and policy, summarized as follows:

(1) Is there a specific age group of affected children who do not understand the selling intent of, or otherwise adequately comprehend television advertisements?

(2) Is advertising directed to young children, unable to comprehend television advertising, unfair or deceptive and, if so, is it remediable?

(3) How should the Commission define advertising "directed to" or "seen by" children in order to identify the unfair or deceptive advertisement?

(4) Will a ban on television advertisements directed to young children affect the quality or quantity of children's television programming? What is the harm to young children of television advertising directed to them?

(5) Are there remedies other than a ban for the problems associated with child oriented television advertising?

(6) Is there evidence that advertisements for highly sugared products lead children to consume such products and get tooth decay? Is a ban or some other form of restriction necessary to remedy this problem?

(7) What factors affect the cariogenicity of food and what is their relative magnitude? (*E.g.*, form and frequency of consumption)

(8) Does between meal consumption of sugared products (snacking) have a greater negative effect on dental health than mealtime consumption, so as to warrant differentiation in any proposed rule?

(9) What evidence is there on the question of sugared consumption and nutrition related health problems?

(10) Do children know about the health, nutrition and dental consequences of the consumption of sugared products? Does advertising affect this awareness?

(11) How should the terms "directed to" or "seen by" be defined as regards advertising to older children?

(12) How could one best communicate to older children information about the risks of sugar consumption?

(13) Who should devise the measures for conveying such information to older children (*e.g.*, advertisers, outside organizations)? What is the Commission's role?

(14) Will the proposed remedies adversely affect the quality and quantity of children's programming?

(15) Are there specific claims regarding sugar which should be banned from children's advertisements?

(16) What are the constitutional implications of a ban remedy for either advertising directed to young children or advertising of highly sugared products?

In the Notice of Proposed Rulemaking, the Commission proposed that hearings be held in two stages, the first a public legislative-type hearing, and the second an adjudicative-type hearing on certain disputed issues of specific fact. The Commission also proposed that issues for the adjudicative-type hearings be suggested by the parties and then designated by the Commission after completion of the legislative type hearings.

The Commission appointed Morton Needelman, an Administrative Law Judge, to preside over the hearings and the proceeding in general. In response to the Commission's invitation for comments, hundreds of written statements were received and placed on the record. Approximately six weeks of legislative-type hearings were held in San Francisco and Washington, D.C. in January and March of 1979. During the legislative-type hearings all questioning was done by the Presiding Officer, although the parties were permitted to present to the Presiding Officer suggested questions for cross-examination of witnesses. The Presiding Officer thoroughly questioned all witnesses and informed the parties that disputed issues of material fact might be designated for later adjudicative type hearings. During the course of the hearings and in the various submissions to the Presiding Officer, all factual issues and legal theories were vigorously debated and disputed by the parties to the proceeding.

All parties were requested to submit briefs and responses to the Presiding Officer proposing issues to be designated as disputed and necessary to resolve. Twenty-three parties to the proceeding submitted briefs listing issues to be designated as disputed, and, in most cases listing those issues the parties believed were already resolved on the record. Most of these parties also filed responses to the disputed issues briefs. On July 30, 1979, the Presiding Officer issued Order No. 78 in which he concluded that there were disputed issues of material fact that were necessary to resolve at adjudicative-type hearings pursuant to section 18(c)(2)(B) of the FTC Act. He recommended that disputed issues hearings be held on the following three issues:

1. To what extent can children between the ages of 2 and 11 distinguish between children's commercials and children's programs to the point that they comprehend the selling purpose of television aimed at children?

2. To what extent can children between the ages of 2 and 11 defend against the persuasive techniques used in these commercials, such as fantasy or cartoon presenters, premiums, limited information, and various associated appeals?

3. What health effects, actual or potential, attach to any proven lack of understanding of selling intent or inability to defend against persuasive techniques?

In accordance with the schedule set by Presiding Officer Needelman, most parties, including Commission staff, filed responses to portions of Order No. 78. The Commission had not yet made a decision with regard to the proposed disputed issues when, in May 1980, Congress enacted the FTC Improvements Act of 1980 (hereinafter "Improvements Act"), which removed the Commission's authority to continue the rulemaking in its then current posture.

The Improvements Act suspended the children's advertising rulemaking proceeding and set forth certain conditions that would have to be met before the rulemaking could resume. Specifically, the Improvements Act provided that the rulemaking could resume only under a theory of deception, although it was initiated under theories of both deception and unfairness. In addition, the Act provided that the rulemaking could not be continued unless the Commission published "the text of the rule, including any alternatives, which the Commission proposes to promulgate," and allowed public comment on the text.(1)

In response to the requirements of the Improvements Act, the Commission issued an Order on June 18, 1980, instructing staff to prepare recommendations regarding:

1. What courses of action might be undertaken by the Commission, including further rulemaking proceedings; alternatives or complements to such proceedings; and an assessment of each course of action.

2. The text of a proposed rule, should the Commission determine that further rulemaking proceedings are appropriate.

The Commission gave the following additional instructions:

> * * * In making its recommendations regarding a rule, the staff should discuss the type of evidence needed to support a rule based on a deception theory as well as what the record shows concerning the prevalence of children's advertising that the staff would characterize as deceptive. The staff should also discuss the benefits and adverse economic effect of any proposed rule and alternative courses of action. Finally, if a rule is recommended, the staff should analyze any First Amendment considerations that may relate to the particular rule being suggested.* * *

Pursuant to that Order, staff initiated informal meetings with major parties to the proceeding to explore what courses of action other than a rulemaking might be undertaken. Those meetings required more time than initially had been anticipated by the Commission. Therefore, staff received an extension of time to February 15, 1981, in which to submit a status report on the progress of the meetings, as well as to suggest a date on which staff recommendations would be submitted. Staff's status report, placed on the public record on February 20, 1981, concluded that the discussions with regard to voluntary alternatives to a rulemaking had not been successful, and stated that a staff report, setting forth recommendations with regard to the rulemaking proceeding, would be submitted to the Commission on March 31, 1981. Staff, in its report of March 31, 1981 (hereinafter "Staff Report"), recommended that the proceeding be terminated. Staff concluded that the report developed thus far did not suggest viable solutions, which the Commission could implement through rulemaking, to the problems articulated during the proceeding.

With respect to the problem of television advertising directed to young children, staff concluded that children six years and under place indiscriminate trust in televised advertising messages and do not understand the persuasive bias inherent in advertising. Staff also concluded that the techniques, focus and themes used in child-oriented television advertising enhance the appeal of the advertising message and the advertised product to young children. Thus, staff concluded that the record established a legitimate cause for public concern. However, staff also found that the only effective remedy suggested by the record for these problems would be a ban on all advertisements oriented toward young children. Staff stated that such a ban, as a practical matter, could not be implemented because its coverage would be both over-inclusive and under inclusive (2)

With respect to the effect of sugared product advertising on the nutritional attitudes of children under 12, staff concluded that the record evidence was inconclusive. Finally, with regard to dental health, staff found that the record did not reveal the existence of a scientific methodology for determining the cariogenicity of individual food products, which would be sufficiently valid and reliable to justify a government-mandated rule. Staff stated that the identification of such a methodology would be a threshold step in the implementation of any proposed rule. Therefore, staff concluded that the apparent lack of a methodology precluded regulation of child-oriented advertising for food products based on the theory that such products contribute to dental caries.

By notice in the Federal Register of April 8, 1981,(3) the Commission solicited public comment on the staff's recommendation that the rulemaking be terminated. Comments were to be submitted on or before June 8, 1981. Staff reviewed and analyzed the 95 comments submitted and forwarded its final recommendation to the Commission on September 1, 1981.

In making its final recommendation, staff reiterated its contention that the record compiled during the proceedings, while containing a voluminous amount of information on all sides of the many complex issues raised, does not provide an adequate basis for formulating a supportable and workable rule on children's television advertising. In addition, staff noted that the comments submitted in response to the Staff Report indicate that sufficient conflict remains about factual issues raised in this proceeding that any attempt to formulate a rule would require the commitment of substantial additional time, money and resources in order to explore further the difficult factual and policy issues raised. In conclusion, staff recommended that rulemaking should not be pursued.

Staff's recommendations as to the major issues were as follows:

1. Staff asserted that the record with respect to the issues of television advertising directed to young children is insufficient to justify proposing the text of a rule. It also stated that the appropriate age group to use in defining "young children" who would be the subject of such a rule is also subject to dispute.

The staff concluded in its Report that children six years and under are the group adversely affected by television advertising. However, other participants in the rulemaking suggested, both during the hearings and in comments on the Staff Report, that the age group should be defined as seven or eight years and under. In addition, ACT presented in its comments an argument that children aged eight to twelve years also have sufficient cognitive limitation to be considered in conjunction with "young children" for the purposes of defining the affected group.(4) This latter contention, however, was not presented during the hearings in any substantial fashion.

In contrast to these views, industry comments argued (1) that no age group is adversely affected by television advertising;(5) (2) that to conclude that children are captives of television ads ignores the major influence of parents and other adults on the developing child;(6) (3) that the record developed to date would not support any conclusion on this issue, particularly in light of criticisms developed in the academic community of the Piagetian theory of child development which was heavily relied upon by staff;(7) and (4) that to support a rule, the Commission would need to demonstrate that young children actually purchase items advertised on television or that a child's parents do so against their own inclination.(8)

Regardless of whether the exact age group is defined as six and under or eight and under, the conclusion reached by staff was that no effective remedy is supported by the present record. Staff stated that a ban remedy applied to advertising directed to or seen by young children would be both under- and over-inclusive. Staff asserted that whether further inquiry would assist in the identification of the appropriate age group or would help clarify the issue of whether an appropriate remedy could be formulated is speculative. Therefore, staff recommended to the Commission that no further commitment of resources be made in this rulemaking.

Consumer group commenters disagreed with staff's analysis, contending either that (1) a ban could be implemented;(9) or (2) the inability to implement a ban is not a justifiable reason for abandoning alternative solutions to the concerns raised by children's advertising.(10) Numerous commenters made suggestions for alternatives to a ban, including such possibilities as public service announcements, affirmative disclosures, limiting advertisements for sugared products, restricting the techniques used in children's advertising and offering discount rates to companies advertising "healthy foods."(11) Consumer groups generally advocated continuation of rulemaking hearings to explore further these remedial issues (12)

Industry commenters favoring termination of the rulemaking almost unanimously agreed with staff that neither a ban nor any other remedy could be implemented at this time (13) However, the grounds these commenters cited in support for this conclusion were not restricted to those cited by staff and the staff was sharply criticized for recommending termination on unnecessarily narrow grounds.(14) Commenters argued that the record evidence developed to date was insufficient to prove the existence of a violation of the Federal Trade

Commission Act or the existence of public injury (15) They added that implementation of a ban should be precluded by the First Amendment and economic considerations such as the effect of the ban on the quality and quantity of children's programming (16) One commenter noted that there was an "Orwellian ring" about concluding on one hand that children cannot understand or evaluate advertising while concluding on the other hand that non commercial advertising is an excellent educational medium (17)

2. The Staff Report concluded that the record on the possible link between children's attitudes about nutrition and television advertising was inconclusive and therefore that it would be premature to formulate a rule on this subject. Staff argued that, as with the other issues presented, the Commission could expend additional resources in order to develop the record further. However, staff asserted that whether additional hearings or investigation would augment the record sufficiently to justify the formulation of a rule is speculative. Therefore, the staff recommended that the Commission not pursue this issue further in this rulemaking.

Consumer group commenters disagreed with staff's conclusion that the record developed to date is inconclusive concerning the link between children's advertising and nutrition.(18) ACT, for example, contended that because children cannot critically process and resist television advertising, it is deceptive to convey commercial messages to them without revealing the nutritional implications of sugar consumption (19)

Many industry commenters agreed with staff that the record is inconclusive on this issue;(20) but some argued that the record demonstrates that children do *not* lack an awareness of basic principles of good nutrition and dental health (21) Another commenter argued that at most, record evidence suggests the "possibility" of a link between advertising and nutritional attitudes and that this "possibility" could not justify further rulemaking proceedings (22)

3. With respect to the issue of sugar and dental caries, the Staff Report concluded that the present record suggested no generally accepted scientific method for measuring the cariogenic potential of specific foods. Staff also concluded that identification of such a method would be a threshold step in the formulation of a workable rule and that absent such a methodology, the inclusion of specific products within a rule or exclusion of other products from that rule could not be justified. Therefore, staff recommended that proceedings in this area not be continued (23)

Consumer groups disagreed with staff's conclusion that the unavailability of such a methodology barred further consideration of a rule. They argued that the evidence on the record is more than adequate to identify categories of sweet, sticky foods which greatly contribute to the formation of dental caries (24)

Industry commenters generally agreed with staff's conclusion that no acceptable methodology exists, but urged the Commission to reject any implication that the development of a reliable methodology might justify reinstating this proceeding or a similar one (25) One commenter emphasized that the precise measure of the cariogenicity of a food product is virtually meaningless without consideration of the manner in which the product is eaten.(26) Other commenters disagreed with the Staff Report's description of the etiology of caries, suggesting that even the scientific context for the development of a methodology is subject ot dispute.(27)

Commission Decision To Terminate the Rulemaking

The Commission has decided to terminate the children's advertising proceeding. The Commission has reviewed the rulemaking record, the March 31, 1981, staff report, the comments on that report and the staff's final recommendation. It is apparent from our review that resolution of the many factual issues essential to consideration of a trade regulation rule would involve lengthy and complex proceedings. It is also apparent that the ultimate, definitive resolution of these factual issues, assuming the Commission were to undertake such proceedings, is highly speculative. Even if the Commission were able to resolve these factual issues in a manner which would support promulgation of a trade regulation rule, substantial questions would still remain as to the Commission's ability to formulate an effective remedy which could be justified on both legal and policy grounds.

In short, the Commission's review of the rulemaking record developed thus far clearly indicates that a major commitment of the Commission's resources would be required to continue this proceeding, resources which would necessarily have to be diverted from other pressing enforcement priorities. In light of the possibility that even a protracted rulemaking would not culminate in a definitive resolution of the factual and remedial issues at stake in this proceeding, we cannot justify sacrificing other important enforcement priorities to its continuation.

The factual issues contested by the parties in this proceeding are numerous and complex. The parties have debated the validity of competing theories concerning the cognitive development of the child. They have disputed the interaction between the family infrastructure and the effect of television advertising on daily purchasing decisions and children's nutritional attitudes. The parties have questioned both the existence of a reliable methodology for measuring the cariogenicity of foods advertised to children and the significance of a product's cariogenicity (assuming it could be established) to children's dental health.

Following approximately six weeks of hearings, Presiding Officer Morton Needelman recommended the designation of disputed issues at stake in this proceeding as three far-ranging questions. His recommendations were immediately challenged by most of the parties to this proceeding and voluminous briefs were filed asking the Commission to modify Mr. Needelman's Order No. 78. At this point in the proceeding, Congress enacted amendments to the Federal Trade Commission Act requiring the Commission to suspend the rulemaking until the text of a proposed rule was published and directing that such a rule could be based only on a theory of deception.

To continue the rulemaking, therefore, the Commission would be compelled to formulate a proposed text of a rule on the basis of the rulemaking record developed to date. The Commission would then have to address the arguments raised by the parties in response to Order No. 78. Continued consideration of a rule must of course occur in the context of the procedures specified in Section 18 of the Federal Trade Commission Act, and the Commission's Rules of Practice. In the case of this proceeding, these procedures would include submission of additional documentary evidence, adjudicative-type hearings with the opportunity for cross-examination, the submission of rebuttal comments, filing of staff and presiding officer's reports, and presumably oral presentation before the Commission at which selected interested parties are allowed to deliver final arguments on the advisability of promulgating a trade regulation rule. (See 15 U.S.C. Section 57a and 16 CFR 1.13.)

Even assuming that the Commission could formulate the text of a proposed

rule at this stage of the proceedings, the Commission cannot be confident that the many factual issues remaining would be susceptible to satisfactory resolution after completion of full rulemaking proceedings.

In addition to our concern about the likelihood of resolving the factual issues necessary for consideration of a trade regulation rule, we question the availability of an effective remedy that can be justified on both legal and policy grounds. The staff has suggested that the only effective remedy for the problems allegedly posed by child oriented television advertising would be a ban on all advertisements aimed at young children, but concludes that such a remedy could not be implemented as a practical matter since its coverage would be both over and under-inclusive. Some commenters have challenged the staff's conclusion arguing that the age group of children who are potentially deceived is sufficiently broad that a ban on children's advertising could be effectively implemented.

Without reaching a resolution of this debate over the practicality of implementing a total ban on children's advertising, the Commission is nevertheless aware of the substantial legal and policy issues involved in any consideration of the adoption of such a drastic regulatory remedy. We seriously doubt, given these legal and policy issues, whether a total ban should ever be imposed on children's advertising at the end of rulemaking proceedings.

Commenters have suggested other remedial alternatives, including affirmative disclosure requirements, limitations on child-oriented advertisements and public service announcements however, the effectiveness of these alternatives in remedying any deception inherent in child-oriented advertising could be determined only after final resolution of the factual issues described above. In addition, the expenditure of further resources would be necessary to determine which remedies should apply either to advertising directed at very young children or advertising for cariogenic food to children of all ages and to gauge whether the benefits of such remedial alternatives would justify the costs they would impose.

In sum, should the Commission determine to continue this rulemaking, it would be committing substantial resources in money and personnel to a lengthy inquiry in an effort to resolve the complex factual and remedial issues posed by the rulemaking, recognizing that a satisfactory resolution of these issues is speculative. We are unwilling to make this commitment at the expense of more pressing enforcement priorities. We conclude, therefore, that it is not in the public interest to continue this proceeding and we hereby give notice of its termination.[28]

By direction of the Commission. Commissioner Pertschuk did not participate

Carol M. Thomas,

Secretary.

Footnotes

1 FTC Improvements Act of 1980, Pub. L. No. 96-252, Sections 11(a)(1), 11(a)(3), 94 Stat. 374.

2. See Final Staff Report and Recommendation (March 31, 1981) at 36-47.

3 46 FR 21,019 (1981).

4. ACT, S-58. All "S" citations refer to comments received in response to the April 8, 1981 Federal Register notice. These comments were filed in category S of the Rulemaking Record, in order of the date received. Ninety-five comments were received.

5. *See, e.g.*, Chocolate Manufacturer's Association (CMA), S-44, General Mills, S-58, Association of National Advertisers (ANA), S-71.

6. General Mills, S-58; National Association of Broadcasters (NAB), S-62.

7. General Mills, S-58; NAB, S-62; ANA, S-71.

8. CBS, S-45

9 Stephanie Seltz, S-2; Merlene Jones, S-18, Sandi Bryand, S-39; Stephaine Turner, S-80; Rebecca Bishop, S-84; Carrie Stamer, S-91, ACT, S-58, CSPI, S-60; Vivienne Aronowitz, S-75, American Academy of Pediatrics, S-64

10. Sally Steenland, S-13; Garth and Sandra Skouson, S-17; Schuyler Day Care Center, S-4, National Association of Pediatric Nurse Associates & Practitioners, S-10; Vivienne Aronowit, S-75.

11. Sally Steenland, S-13; Garth and Sandra Skouson, S-17, Janet L. Goodyear, S-29; Karen Gaff, S-47; Lesley Yu, S-83; Julie Copus, S-64; Schyler Day Care Center, S-4, Children's Rights, Inc., S-7 and S-89, Children's Learning Center, S-15; PTA, Fox Hills Elementary, S-93; National Association of Pediatric Nurse Associates and Practitioners, S-10; Laurie Devitt, R.D., S-18; Vivienne Aronowitz, S-75; Dental Health Section of American Public Health Association, S-82.

12. Sally Steenland, S-13, Janet L. Goodyear, S-29; Karen E. Lewis, S-87; Children's Learning Center, S-15; Commonwealth of Massachusetts Consumer Council, S-20; Children Theatre Association of America, S-24; National Extension Homemakers Council, Inc., S-26; Alpha Kappa Alpha Sorority, S-27; American Personnel and Guidence Assoc., S-37, International Reading Association, S-40; Committee for Children's Television, Metro Detroit, S-42; Holt International Children's Services, Inc., S-51; ACT, S-55; Long Island Coalition for Fair Broadcasting, S-70; Aspira, Inc., S-88; Rochester Coalition for Children's Television, S-72, National Association of Pediatric Nurse Associates and Practitioners, S-10, Laurie Devitt, R.D., S-18; National Council of Community Mental Health Centers, S-33, The American Academy of Pediatrics, S-64, Rosalyn Wilson, R D H, B S., M P H., S-58; Joanne Ikeda, R D., S-72; H. Horowitz, D.D.S., M P.H. and A. Horowitz, R D H., M.A., S-80; Vivienne Aronowitz, S-75, Interfaith Center on Corporate Responsibilites, S-28.

13 *See, e.g.*, NDC, S-67; ANA, S-71; CDS, S-45.

14 *See, e.g.*, ANA, S-71; CDS, S-45.

15. William S. Marbourg, S-25; Association of Independent TV Stations (INTV), S-56; NAB, S-62; NDC, S-67; American Advertising Federation (AAF), S-21; American Association of Advertising Agencies (4A's), S-22; Ogilvy and Mather, S-67; ANA, S-71; Food Service and Lodging Institute, S-83; CMA, S-44, Kellogg Co., S-50; General Mills, S-58; Ralston Purina Company, S-63, Toy Manufacturers of America(TMA), S-54.

16. CBS, S-45; INTV, S-56; The Producers Association for Children's Television (PACT), S-65, Ogilvy and Mather, S-67; AAF, S-21; General Mills, S-58; TMA, S-54.

17. CMA, S-44.

18. ACT, S-55; CSPI, S-60.

19. ACT, S-55.

20. *See, e.g.*, ANA, S-71; PACT, S-65.

21. CMA, S-44, General Mills, S-58.

22. ANA, S-71. *See also*, CMA, S-44.

23. However, staff's recommendation that the Commission not proceed to regulate children's television advertising by promulgating a trade regulation rule should not be construed as a belief that other branches of government or governmental entities could not or should not consider further study or regulation in this field.

24 SCPI, S-60; ACT, S-55.

25. *See, e.g.*, Kellogg, S-50; General Mills, S-58.

26. Kellogg, S-50.

27. General Mills, S-58; NBC, S-67.

28. The Commission's decision to terminate this rulemaking proceeding does not rest upon the resolution of any disputed issues of fact that have been proffered or raised in this proceeding

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UNITED STATES OF AMERICA
BEFORE THE FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of	)	
	)	
	)	
Revision of Programming and Commercialization Policies, Ascertainment Requirements, and Program Log Requirements for Commercial Television Stations	)	MM Docket No. 83-670

To: The Commission

COMMENTS OF THE ASSOCIATION OF NATIONAL ADVERTISERS

The Association of National Advertisers (A.N.A.) hereby submits comments in the above-captioned proceeding.

The Association of National Advertisers (A.N.A.) represents the vast majority of national and regional advertisers in the United States. Our membership includes roughly 300 companies and their more than 2,000 subsidiaries and divisions, many of which are relatively independent advertiser entities. These companies sell a wide range of products and services and use advertising as an important element of their marketing and public relations programs. A.N.A.'s membership, which includes a number of companies which manufacture goods intended primarily for use by children, collectively accounts for more than two-thirds of all national and regional advertising expenditures in this country. Throughout its 77-year history, A.N.A. has worked to advance the rights and abilities of advertisers to truthfully advertise legal products.

The issue before the Federal Communications Commission (FCC) is whether its "overriding policy goal of promoting the public interest in broadcasting requires the reimposition of commercialization guidelines in children's programming." A.N.A. believes the public interest is not served by reimposing the commercialization guidelines. Advertising plays a vital role in our society and economy by communicating needed information to consumers, stimulating sales and economic growth, and providing revenue to support the free and independent media we enjoy in this country. There is simply no basis to support a finding that the public interest would be served by the FCC limiting the number of commercials aired during children's programming.

The advertising community has long recognized the need to assure that all advertising is truthful and nondeceptive. That is why the A.N.A., along with the American Association of Advertising Agencies, the American Advertising Federation and the Council of Better Business Bureaus, established the National Advertising Division and the National Advertising Review Board (NAD/NARB) of the Council of Better Business Bureaus. The NAD/NARB is the self-regulatory arm of the advertising community. A separate Children's Advertising Review Unit (CARU) was established within the NAD/NARB system to monitor and assure the truthfulness of children's advertising. CARU was formed as a direct result of the advertising community's sensitivity to the fact that children generally and advertising directed at children specifically deserve special treatment. Advertisers clearly recognize that advertising which may in fact be totally acceptable for adults may be misunderstood by

children. In addition to the NAD/NARB and CARU, the federal government and the states have the authority to regulate advertising to assure that it is truthful and nondeceptive.

The United States Supreme Court has clearly stated that in regulating truthful, nondeceptive advertising a "substantial" government interest must be "directly advanced" in "a manner no more extensive than necessary," Central Hudson Gas & Electric Corp. v. Public Service Commission of New York, 447 U.S. 557 (1980). A.N.A. does not believe any substantial governmental interest is served by "protecting" children from truthful advertising through arbitrary limits on the number of commercials aired during children's programming. We are unaware of any credible data to support a finding that truthful advertising harms children and that limits on advertising would directly advance the public interest. Implicit in such proposals is the assumption that truthful advertising has a deleterious effect on the public and children in particular. A.N.A. unequivocally rejects this assumption.

The Supreme Court in Virginia Pharmacy Board v. Virginia Citizens Consumer Council, 425 U.S. 748, 765 (1976) in fact clearly recognized the positive contribution advertising makes to the proper functioning of our economy:

> So long as we preserve a predominantly free enterprise economy, the allocation of our resources in large measure will be made through numerous private economic decisions. It is a matter of public interest that those decisions, in the aggregate, be intelligent and well informed. To this end, the free flow of information is indispensable.

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The Central Hudson test also requires that government regulation of truthful, nondeceptive advertising must be accomplished through the least restrictive means possible. Again, A.N.A. is unaware of any evidence to support a finding that totally arbitrary limits on the amount of advertising during children's programming is the least restrictive means of advancing any legitimate government interest.

Another issue before the Commission in this proceeding whether programs featuring characters that also may be sold as products and programs utilizing interactive toys should be classified as commercials and therefore subject to the commercialization guidelines. A.N.A. believes that such a determination by the Commission would threaten the creative freedom of writers, producers and others involved in children's programming. Simply because a program features characters that also may be sold as products does not make that program an advertisement. Such programs can and do stand alone on their entertainment value. Should the Commission move to classify all programs associated with specific toys or other children's products as commercials, then the reimposition of the commercialization guidelines would effectively eliminate all such programming. The Commission should be sensitive to the constitutional implications of any effort to regulate the content of children's programming through commercialization guidelines.

We noted at the outset the positive benefits advertising provides. To ensure that advertising can do its job most effectively, A.N.A. believes it is

essential that advertisers and program producers be given the flexibility to best determine how to balance the entertainment needs of their audience with the financial requirements of high quality programming. These needs will necessarily vary over time, and government should not establish arbitrary limits which straightjacket the ability of advertisers and program producers to respond to the marketplace and the public they serve.

A.N.A. supports the Commission's 1986 decision to eliminate the commercialization guidelines. From the advertiser's perspective, there are a number of considerations that effectively work to determine the appropriate level of advertising. The first and most obvious constraint is the time required for the programming itself in order to assure that it is effective in attracting viewers. Second, advertisers and broadcasters are sensitive to the growing competition from other sources, including cable channels and video cassettes which carry little, if any, advertising, and from the multitude of competing television channels on public and commercial television. Third is the advertiser's need for an effective environment for his advertising. Advertisers will seek to avoid a media environment in which too much advertising in a program effectively prevents any commercial from distinguishing itself and reaching the consumer. Obviously other factors, such as parental supervision, the individual station's own policy with regard to the amount of advertising it will air, and the cost of advertising on the broadcast media, all contribute to determining the amount of advertising during any programming period.

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A.N.A. believes the reimposition of the commercialization guidelines for children's programming challenges the First Amendment rights of advertisera and all those connected with the creation, production and broadcasting of children's programs. We believe further that these guidelines represent a backdoor effort to tailor children's programming to a particular view of what is appropriate and worthwhile. A.N.A. urges the Commission to reaffirm its 1986 decision eliminating the commercialization guidelines for children's programming.

Respectfully submitted,

February 19, 1988

DeWitt F. Helm, Jr. President
Association of National Advertisers, Inc.

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Mr. MARKEY. Thank you, Mr. Weil, very much. That concludes statements of the first panel.

The Chair now recognizes itself for an opening round of questions.

Mr. Weil, Ms. Charren, you could have an interesting conversation right here in terms of——

Mr. WEIL. We have had for decades.

Mr. MARKEY. And one that could be of enormous benefit to the committee in understanding the two perspectives that you represent.

Mr. Weil, you're basically saying, in summary, that the government's got no business in this field whatsoever, that it's up to the judgment of the station owners, of the product-sellers, to use their own judgment.

Is that correct?

Mr. WEIL. Not at all.

Mr. MARKEY. Where do you draw the line? Where can we get in?

Mr. WEIL. You can get in by satisfying the constitutional requirements that have been established by the Supreme Court; namely, if you can satisfy the burden of proving that there is a substantial governmental interest involved and that whatever legislation or other intervention you contemplate will directly advance that governmental interest with a minimum restriction upon free speech, free commercial speech, if you can satisfy those requirements, you darn well do belong in the picture.

Mr. MARKEY. OK. Now, do you believe that young children, let's say about the age of five, do you think that they have difficulty in identifying advertising and differentiating it from other parts of programming?

Mr. WEIL. I'm not an expert in that field. That is one of the factual issues, as the FTC pointed out, that would have to be decided in establishing the existence of a substantial governmental interest, the first of the three legs to constitutionally permitted intervention.

Mr. MARKEY. Do you think if we, as a Congress, do you think if we made a finding that there was a substantial governmental interest in protecting 5-year-olds from having advertising and program content so interspersed that it was very difficult for children with that level of cognitive powers to be able to differentiate, do you think that that would be able to withstand a court challenge?

Mr. WEIL. You might or might not, depending on——

Mr. MARKEY. Do you know the answer?

Mr. WEIL. I beg your pardon?

Mr. MARKEY. Do you know if it would or not?

Mr. WEIL. No, because I don't know how that factual issue would be resolved on actual, concrete evidence.

Mr. MARKEY. OK. So, would you oppose us passing something like that and letting it go, then, to the courts if anyone wanted to challenge?

Mr. WEIL. Yes. If you don't have the factual support sufficient to prove the existence of that interest, we would oppose it.

Mr. MARKEY. And you don't think that that evidence exists?

Mr. WEIL. I haven't seen it.

Mr. MARKEY. OK. Ms. Charren?

Ms. CHARREN. I listened to Gil Weil do the same thing to this hearing that he did to the Federal Trade Commission hearing, which was dealing with a number of solutions to the problems of children's advertising, one of which was a ban, others of which dealt with disclosure and disclaimers and limitations in advertising.

The ad industry positioned it as a ban, and that was an easy attack, an easy thing to attack.

To say that people who would like to, say, reimpose limits on the amount of advertising to the point of 9½ and 12 minutes, limits that were in the process of going down before they were done away with so that it was the same all week for kids, just like it's the same all week for the 9½ minutes that we tend to give adults in prime-time, sort of didn't disappear with the end of the NAB code.

Anyway, to say that if you endorse an idea like that, what you're really trying to do is to get rid of advertising is like saying that if you endorse the 55-mile-an-hour speed limit, what you're really trying to do is to get rid of automobiles.

That's not what ACT is looking for. We lost that battle. We did make a pitch early on that in the best of all possible worlds, we wouldn't be pitching product to children, telling them that they needed toys to be happy and sugar to be healthy.

But we said, OK, we'll take the commercials, but we won't take programs that have turned to commercials.

Mr. MARKEY. Ms. Wartella?

Ms. WARTELLA. Yes. I would submit that there is evidence to indicate that young children below the age of five have difficulty discriminating advertising from programming content.

Such evidence was presented in front of the Federal Trade Commission. I testified in 1979 when they were considering the advertising bill. And when the FTC did come up with their final statement about children's advertising, they agree that they found the evidence and that the evidence, as I quoted, demonstrated—this is from the FTC 1981 statement—"Children do not possess the cognitive ability to evaluate adequately child-oriented television advertising."

I submit to you that the facts are not under dispute.

Mr. MARKEY. Well, OK. Well, no, they are. Mr. Weil totally disputes that.

Mr. Weil, can I ask you, could you live under the guidelines that existed up through 1984, or did you have problems with them as well?

Mr. WEIL. I don't know whether there were problems, and I'm not speaking on behalf of the ANA so much from the viewpoint of how the guidelines actually operated. I'm speaking on the principle of the application of the First Amendment.

This is what we are talking about, we being the ANA.

Mr. MARKEY. Again, would you mind—that is, if the First Amendment—historically, we have set out a special category for free speech directed at adults and differentiated from speech addressed to children. That's why you can have 18-year-olds, you know, you have to be 18 years or older to go into dirty bookstores or to have access, as we're now discussing here, to pornographic telephone calls.

The ACLU and others that we negotiate with on a variety of issues, they all understand the distinction.

Do you accept that distinction?

Mr. WEIL. It's more a matter of the application of the principles under the First Amendment than whether the amendment applies itself.

Might I just ask a question of those who are speaking about the inability of children to perceive the difference between—well, let's say between a commercial or the existence of the commercial intent, persuasive intent.

Is that relieved by limiting the time? Or does that still exist if there is less than 9½ or 12½ minutes?

Does the time change that?

Mr. MARKEY. I understand.

Ms. CHARREN. It is not a perfect world. I think in the best of all possible worlds, children's television would be what we used to call in the old days "sustaining programming."

But this is not the best of all possible worlds and ACT is willing to accept 9½ and 12 minutes. We think it's sort of creepy that adults get 9½ minutes and we're going to give children 12 on weekdays because they're really no different Monday through Friday than they are Saturday and Sunday. But since that's what we had and since it's gotten infinitely worse since it went away, we'll live with that.

And we think putting them back will be a significant help to American families.

Mr. MARKEY. Mr. Weil, are you bothered at all by the bumpers and the tie-in products? Does that bother you at all?

Mr. WEIL. No, if it is not deceptive. If it is deceptive, then, granted——

Mr. MARKEY. It's addressed to 5-year-olds, now, 7-year-olds.

Mr. WEIL. What deception?

Mr. MARKEY. The deception is that the toy as an advertisement and then the toy as part of the program is very difficult to distinguish for a 5-year-old.

Mr. WEIL. And what's the materiality of that? Let us say here is a child and he sees a toy presented in a very appealing and persuasive light.

Whether it's in the commercial or in the program, I don't see that that makes any difference.

Mr. MARKEY. I think, then, we probably have a problem with you, Mr. Weil. I'm afraid you're missing the forest for the trees here.

I understand that you're looking for perfection and you are a stickler on the First Amendment. But don't let the perfect be the enemy of the good. If you share with us our common concern about ensuring that children are not exploited, share with us your judgment, your wisdom with regard to how we can solve that problem, rather than standing back as this constant critic telling us that it's not perfect, rather than help us.

Will you help us shape a bill which can——

Mr. WEIL. I'm looking for two things, Mr. Chairman. One is the substantial governmental interest. If it doesn't matter to the child seeing the toy appealingly presented, whether it's in a program or

a commercial, I don't see the substantial governmental interest. Neither do I see the deception.

Mr. MARKEY. All right. And so, would you support the FCC's repeal of the tie-in regulations and the bumper regulations and the host-selling regulations? Would you support that?

Mr. WEIL. On an ad hoc basis, it depends on the facts. If, in a given situation, that repeal is abused by an advertiser through the introduction of deception in the bumper or the lead-in, then I would say that there is a substantial governmental interest. And the first leg of the constitutional question is solved.

But if there is no deception involved, then I would oppose the regulation.

Mr. MARKEY. I thank you, Mr. Weil. You're honest in your testimony and I appreciate that, and you're a good representative for the interest that you represent.

Mr. WEIL. Thank you, Mr. Chairman.

Mr. MARKEY. I appreciate your perspective. But I'm afraid that your testimony kind of violates the First Law of Holes, which is that when you're in one, stop digging.

So I'm going to end my questions right there and move over and recognize the gentleman from Iowa, Mr. Tauke.

Mr. TAUKE. Thank you, Mr. Chairman.

Mr. Weil, I don't think you ought to thank the chairman for his comments. I don't think they were really complimentary.

Mr. WEIL. I probably would not be adequately representing my client if they were complimentary.

Mr. TAUKE. What is the impact in the real world of limiting the amount of advertising on children's programming and not limiting it during times of other kinds of programming?

Ms. CHARREN. Well, I think the reason why we need to limit it legally to children and why we can depend on the market place for adult programming is because adults generally don't like most commercials. When they get a VCR, they zap them to the degree that the industry has conferences to figure out how to deal with zapping, how to deal with fast-forwarding.

Somebody was talking about making the commercials so it worked in fast-forward as well as it worked not in fast-forward.

Mr. TAUKE. Excuse me.

Ms. CHARREN. And children don't zap. They like commercial speech. Children really like it.

Now, you could take the position, if they like it, then give it to them, right? But the fact is that a communications system that only gives commercial speech——

Mr. TAUKE. I think you're missing the thrust of my question. My question, I guess, is aimed at this—do we have a situation where if we limit the amount of commercial time for children's programming and don't for other kinds of programming, what's the impact of that?

Is the impact that then stations will say, well, we aren't going to make as much money off children's programming, so we'll run something else? Is there an impact that it will result in higher costs for advertising per minute on the children's programming?

What happens in the real world out there when these limitations come?

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Ms. CHARREN. I think what's interesting economically about what we're talking about, and we are talking about definite numbers because we're talking about reinstating old guidelines, is that the industry seemed to make out under the old guidelines, and they say they're doing it now.

The fact is the industry's answer to all of this generally, it seems to me, except for Mr. Weil, is that we're doing it, so we don't need the regulation.

And one reason why the idea of getting together for a code is acceptable to some in industry is so they can put back these very numbers.

So I think the industry sees it as a problem.

Mr. TAUKE. Are they doing it now?

Ms. CHARREN. We think they're going over the numbers. Our research shows that they are going over the numbers to enough of a degree for that to be a problem.

However, the industry seems to say, we're not.

Mr. TAUKE. We ought to be able to find out factually and not have to rely.

Mr. Sheehan?

Mr. SHEEHAN. First off, in the competitive television world, if you overcommercialize, you'll create clutter. The advertisers won't like that because then they think that their message is being diluted because it's being packaged with so many other messages.

You walk your audience away from your programming and your programming is what brings them to your station to begin with.

So, to a certain extent, self-limitation by the individual broadcaster makes some sense.

The second thing is that television lives by the tyranny of the clock. The show either has to run 1 hour in length or 30 minutes. It's packaged in a specific way to present programming material and nonentertainment programming material, including your promotions for your upcoming shows, et cetera.

So it's not an easy call right now. A lot of these children's shows, the ones that are running on independents Monday through Friday in the afternoons, many are being supported by barter syndication and are being cut a little longer because they have national advertising in the middle where they didn't used to.

Our stations, which are really the only ones I can speak to, are well within the old guidelines. I would commend to you the studies that the NAB has prepared specifically, I believe, for this issue.

I read them last night in preparation. I think they delve very deeply into this and I think they're sufficient.

Mr. TAUKE. So you'd see no practical impact from putting time limitations.

Mr. SHEEHAN. Well, the problem you've got, Congressman, quite frankly, I was just looking in the Chicago market that I'm the most aware of, the top-rated shows for children ages 2 through 11 are "Cosby," "Alf," "A Different World," "Growing Pains," "Who's the Boss?," "Family Ties," "Cheers," "Head of the Class."

All of those are prime-time programming and clearly were designed for adults. But for the actual percentages of children ages 2 through 11 and ages 6 through 11 that are in the audience, they more than double.

The top-rated kids' show is "Ducktails," which runs in the afternoon on the Fox station, drawing an audience of half what "the Cosby Show" draws in the same kids' bracket.

The reason I'm citing these statistics and trying to not so much give you an answer, but give you the various variables that goes into the kids' market is that I think many of us here are grappling with the quick-fix solution to a very complex video environment.

Mr. TAUKE. Is the problem, from your perspective, Ms. Charren, the advertising itself, or is it the nature of the advertising?

Ms. CHARREN. The problem is the amount of advertising. We have problems——

Mr. TAUKE. OK. If we were advertising musical instruments to get people to get violins and the World Book Encyclopedia and we did it in amounts equivalent to what's on the Cosby show or some other evening programming——

Ms. CHARREN. If it's advertising speech, it's advertising speech. We think that a system that is licensed—we hand our whole campaign, and have for 20 years, on the part of the communications act that separates it from newspapers, from the shoe business—I couldn't petition the government to get comfortable shoes when there were high heels and pointed toes.

The communications act says that you're using a public resource known as the broadcast spectrum in return for which you have to serve the public. We say that has to include children and we say that can't be construed to mean only commercial speech.

Now, the degree to which you have something besides commercial speech is what we're talking about here. We think that 9½ and 12 minutes, which is what made it work for a long time, is perfectly appropriate. And that's what we're saying to bring back.

Mr. TAUKE. Mr. Claster, last question. What is your feeling about overcommercialization from a programmer's perspective?

Do you think there's too much commercialization? Does that have impact on you as a programmer?

Mr. CLASTER. I'm not sure I understand the thrust of the question, Congressman Tauke.

Mr. TAUKE. You're a programmer.

Mr. CLASTER. Right.

Mr. TAUKE. You do the programming, right?

Mr. CLASTER. Yes.

Mr. TAUKE. OK. Does it make any difference to you from your perspective whether there's 5 minutes of commercials in 1 hour or 7 minutes or 9 minutes or 11 or 15?

Does that have impact on your programming?

Mr. CLASTER. Well, it's not an area that we really, as a company, have come to grips with an answer on the legislation. It's really the truth.

I mean, stepping outside of that for 1 minute, as an individual, I think we have to be very, very careful on how we limit the commercial time because if we limit it too far, then I think that we're going to get into areas where we can't afford good programming.

I don't think that really answers your question, and I apologize.

Mr. TAUKE. That's OK. Mr. Sheehan?

Mr. SHEEHAN. I was interested in the Doctor's testimony with regard to 5-year-olds and the cognitive abilities.

You may be aware, our Chicago station has done Bozo the Clown live for 28 years, geared to preschoolers, and very successfully. It's a tough ticket to get.

But I have two youngsters of my own. I know you've got youngsters as well, Congressman. I don't know too many 5-year-olds, even if they've seen a commercial, who have walked out and have gone down to a store and started buying.

As I said, the top-rated kids' shows are really adult shows. They're exposed to all those commercials as well.

I don't know how you make the call on it. I think the fabric of American society is really stern enough to withstand, that parents can deal with 5-year-olds fairly well on their purchasing decisions.

Ms. WARTELLA. May I?

Mr. TAUKE. I'll let somebody else referee for a while, Mr. Chairman.

Ms. WARTELLA. May I make one comment——

Mr. TAUKE. Yes, I'd be happy to——

Ms. WARTELLA.—with regard to the notion of limitation of advertising?

Part of the argument that I understand when the limitation on advertising time during children's hours was rescinded was that the market place would assure that if there are too many commercials on children's time, that children would tune out, they would be tired in the way that adults get tired.

Mr. TAUKE. About 20 percent have, apparently.

Ms. WARTELLA. Well, not precisely. In fact, the argument that I'm trying to make based on the research evidence of what we know about children's abilities to identify advertising and to understand it is if a child, let's say one who is five or younger, cannot identify which is the advertisement and which is the program, then how can you expect that child to tune out when there are too many advertisements?

The point is that all of the content of television for children, and by that I mean television that's produced for children commercially, begins to look alike. The advertisements look like the programs; the programs look like the advertisements.

Mr. TAUKE. Is it the nature of the advertising, then, that is the problem?

Ms. WARTELLA. It is the nature of the entire system, that the advertisement—the reason that we're linking together advertising limitations with program-length commercials with wanting different kinds of content, I would think, on children's television is that what we've seen over time is a gradual narrowing of the definition of what constitutes children's programming to first in the 1960's and 1970's, primarily cartoon programming, and then, second, with the lack of any regulations on governing what advertising time, the growth of these program-length commercials, so that now, primarily what we have, both in the independent television market place and on Saturday morning, are programs and commercials that look alike. And what you have are programs that are based on toy products and toy products that are then sold in commercials.

And for the young child who can't identify which is which, what I'm saying is that, and that's what I believe the research evidence indicates, that's unfair.

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Mr. TAUKE. I might just observe, then, the problem, it would seem to me, then, is not even so much the length of time, it's the nature.

Ms. WARTELLA. No. No.

Mr. MARKEY. The time has expired. And if I may just for 1 second, in answer to the question of how it influences young kids, I'm reminded of when I was a member of Den #9 of the Cub Scout troop of the Immaculate Conception parish. It came time for our turn to go on to Big Brother Bob Emory's show in Boston at 12:15 p.m.

In those days, as you remember, your mother used to be home for lunch. She'd be there with a sandwich for you and a bowl of tomato bisque. The good old days when mom was home. So they'd let you off for lunch and you'd have to be back at school by 12:30 p.m.

But if you were lucky, after the 12 p.m. news that got over at 12:15 p.m., Big Brother would come on and you could catch a couple of cartoons before you went back for afternoon class when you're 7 or 8 years old.

It came to be our turn to go and be the peanut gallery for Big Brother. Every single day, Big Brother, when you were home, told you to make sure you get mom to get you the Bosco to put in your milk so that we can toast to the president of the United States.

And every day at around 12:21 p.m., we would turn and Big Brother would lift his glass of Bosco and the American flag would then start floating in front of Ike's face and he'd say, let's toast. And then they'd cut back and he would say, um um good, and there would be an empty glass of Bosco there.

This guy was 73 years old.

Now, you can imagine my disillusionment when I sat in the peanut gallery for the first time, and the only time, and Big Brother turns to the camera and he says, all right, kids, let's toast to the president of the United States, and he lifted up his glass of Bosco. We then cut away so that you see Ike.

Well, Big Brother put down his glass of Bosco and picked up an empty glass.

And so when we cut back, Big Brother's saying, um um, wasn' that good, kids?

Now, when you think about it, there's no 72-year-old guy slugging down a glass of Bosco every day in 12 seconds. I mean, that was not going to happen.

But, I don't want to kid you. There was no 7-year-old in Boston that wasn't drinking a glass of Bosco every day because Big Brother told us to. And he wove it in so well.

Now, a lot of people always wonder, what's wrong with Congress? That could be it.

That could be one of the main reasons. Anyway, I apologize. But I recognize the gentleman from Washington State, Mr. Swift.

Mr. SWIFT. I knew there was something they put in what they drink in Boston.

The difference between Ed's age and mine is I still think of tomato bisque as one of Campbell's newer flavors.

I have two lines of questioning that are distinct and I'm not sure I've got the right panel for the first one, but maybe between Mr.

Claster and Ms. Charron and Mr. Sheehan, we can get the information out and see if there's any conclusions to draw from it.

There are certain broadcasting entities, and Peggy, you may be the best one, but there are certain broadcasting entities that do have some standards for the children's commercials that they will accept. And it would be reasonable to expect that those are probably the networks because they have more resources and frankly, there's more pressure on them, and so forth.

One, is that true? And do you know of any other groups or classifications of stations that would typically have that kind of standard that they would vigorously produce?

Ms. CHARREN. Well, the networks are much more likely to stick to the old standards in terms of time than anybody else around these days.

Mr. SWIFT. What about content of the commercials?

Ms. CHARREN. Then there are some station groups that have been extraordinarily caring about children, like Westinghouse. I haven't examined the Westinghouse stations in terms of what they do, but they're so careful about children generally in all of their programming concepts, they have a rule that you have to do a local children's program every week, for example, at all of their stations, and they've had it for years.

So that I would think that concerned broadcasters need rules less than unconcerned broadcasters, and that's what I meant by the level playing field.

It is not that a whole industry doesn't like children. It's that some people want to maximize profit at the expense of children. And that's why you have clean air rules. That was that whole big meeting that we just had in here.

Mr. SWIFT. Tell me about it.

Ms. CHARREN. You have clean air rules because somebody—you wont' put the million-dollar stuff in your chimney if you don't have to.

Mr. SWIFT. I'm not disagreeing with that.

Ms. CHARREN. Right.

Mr. SWIFT. I'm chasing down another road right here. There are some that do.

Ms. CHARREN. Right.

Mr. SWIFT. And my understanding is that some in fact have content rules. They will accept or reject commercials on the basis of their content for general things and for children.

Ms. CHARREN. Yes.

Mr. SWIFT. Again, I presume that would be more likely to be the larger entities that have more resources and a greater ability to say no, very frankly, and that would tend to be the networks, the larger chains, and so forth. And that probably where you would find it least, I suppose, would be some of Mr. Sheehan's groups, particularly the individual-owned stations that have fewer resources, often less income, less ability to stand on principle when they've got to pay the electric bill and so forth.

Is all of that a fair——

Ms. CHARREN. Well, as I read the NAB study, that's what it seemed to say, that in the larger markets, the amount of advertising was less than the smaller markets.

Mr. SWIFT. OK. Mr. Sheehan?

Mr. SHEEHAN. I think that was a very fair statement, Congressman. I would submit that for over-the-air broadcasters to engage in overcommercialization, et cetera, we're just going to drive people to our competition.

I would submit to you that, to a certain extent, that could lead to being our worst enemy. Speaking for my company, clearly, we do have the resources and we do have unwritten guidelines that we abide by.

Mr. SWIFT. Do you turn down commercials?

Mr. SHEEHAN. Yes, very definitely.

Mr. SWIFT. Mr. Claster, do you happen to know off the top of your head, or maybe this is the kind of thing that you do know, just taking Hasbro as an example, what portion of its overall advertising expenditure on television goes to the networks?

Mr. CLASTER. I'm not sure exactly what the number is, quite frankly. But the majority of the money that Hasbro spends on advertising goes on local television stations.

Mr. SWIFT. One could conclude, and I don't think we have enough evidence to make the conclusion, but maybe we can gather it. It seems to me that the FCC's vaunted market place may be working perfectly—not for the benefit of children. But those stations which are trying to exercise some responsibility in terms of the children's programming are not getting the advertising dollars spent on them, and those that have the least rigorous standards are the ones that are going to be rewarded under this system by getting more advertising placed on their stations.

I postulate that. Does anybody have strong evidence that would say that I've been smoking something?

Ms. CHARREN. The only thing I've heard, and I don't know anything about it—you'd have to check this out—is that some toy companies have two different kinds of commercials, one for networks and one for syndicated programs in the afternoon for the same product because of the more rigorous rules at the networks about accepting the commercials.

So they actually make two different commercials for the both areas.

Mr. SWIFT. And frankly, I, too, get a little more nervous when you start talking about the content. I'm much happier when the industry has the ability to make those judgments. I'm not terribly comfortable with us doing that. I'm much more comfortable on the amount of time kind of thing.

But even there, the current system really puts an enormous amount of economic power in the hands of the toy manufacturer. He can go in search of the broadcasting entity that is least capable of being able to say, we don't want your advertising.

Yes, Mr. Sheehan?

Mr. SHEEHAN. Congressman, I follow your question, but I think there's one element, though. The toy manufacturer wants to attract eyeballs and will take his advertising and his marketing—what you're really speaking to is a larger pot, which is the marketing dollars that are broken down either into advertising or program preparation or promotion, whatever.

I think the way the market is trending right now is that there's only one real hit out there and it's the Disney product, "Ducktails." And what you have there is a very high quality program, not manufactured by a toy manufacturer.

I think the scenario that we were starting to describe actually was tried and, quite frankly, it's failing. I think. I don't know. But I believe that is the trend.

Mr. SWIFT. Well, you know, if that's true, then we're back to—let's assume for the sake of argument that that's true.

Well, there is a lag in legislation. We may be out curing problems——

Mr. SHEEHAN. Sir, I empathize. For many years, I had the opportunity to staff the NAB code and I thought it was one of the finest things our industry ever did.

Quite frankly, the reason we didn't come to the Hill when the judge rejected it and seek a special anti-trust exemption at that point in time, and I'm speaking for myself from my memory, was that we were afraid as to what the Hill would attach to a simple anti-trust exemption to allow us to continue the code exactly the way it was.

Mr. SWIFT. What I was going to say was, assuming that your analysis was correct and I suppose the logical assumption is that, therefore, we don't need to do anything. It's always interesting how people will create and engage in behavior until they get caught and then stop and say, you don't need to do anything.

Boys do that.

Mr. SHEEHAN. That's right, sir. I remember the last time you had a hearing on the subject and you invited in the folks from Mattel and they had a new show, "Captain Power," with the interactive element.

Mr. SWIFT. I remember that group.

Mr. SHEEHAN. I would ask you to go back and look at their fourth quarter results and their first quarter results. The show did not take off. In fact, the only interactive show on television is "I Suspect." No new episodes will be manufactured. And I understand the next application of that technology will be in "Wheel of Fortune," so you can play the game by yourself at home and strictly for adults.

So sometimes these things work in mysterious ways.

Mr. SWIFT. Well, I grieve for them.

Let me pursue the other line here for a moment. Thank you very much. I appreciate that exchange and I'm sorry we didn't have the evidence to tie it down a little tighter. But I think we all know where I was going.

Mr. Claster, you and your company have been associated with Romper Room for a long time. Back in 1979, on behalf of Romper Room Enterprises, you filed comments with the FCC. In those comments, you referenced a December 10, 1971 letter that Romper Room sent to all the stations that were then carrying Romper Room, outlining commercial guidelines for Romper Room.

I'd like to quote from that letter that you sent to the stations.

You said, "These guidelines include, one, Romper Room teachers should no longer do any commercials. Two, elimination of any brand-name references to toys or teaching aids used within the pro-

gram. Three, stations carrying Romper Room should not broadcast within the program commercials for toys or teaching aids used on the program. Four, no mention of commercial products, other than toys should be made. Five, stations carefully follow the National Association of Broadcasters television code commercial time limits."

And you also then said, the response to the Romper Room guideline was that almost all stations carrying the program immediately implemented them in the Romper Room program and, in many cases, adopted the guidelines for other children's programming which they broadcast.

The question is do you still agree with all of that?

Mr. CLASTER. Yes.

Mr. SWIFT. Do you think that that should apply to children's programming on television, generally?

Mr. CLASTER. I think it does apply to children's programming now.

Mr. SWIFT. So you would agree, then, with Mr. Charren that things are out of control.

Mr. CLASTER. No, I don't think I said that.

Mr. SWIFT. You said——

Mr. CLASTER. You asked me if I agree with that now.

Mr. SWIFT. Maybe Ms. Charren doesn't agree with how I characterize that.

Mr. CLASTER. The reason that I agree with that now, Congressman, is that I think that's what's happening now. I don't think that the market place is out of control. I think one of the very interesting things to look at is that, by any definition of program-length commercials, we are not doing program-length commercials in the broadcasting industry.

I think that if you also look at what's going to be on television in September 1988, you're going to see a radically different landscape than even when you first had these hearings in September 1987.

Mr. BRYANT [presiding]. The gentleman's time has expired. The Chair recognizes the gentleman from Illinois.

Mr. CLASTER. I'm sorry, sir. You scared me.

Mr. SWIFT. No, it saved you.

Mr. BRUCE. I don't have any Big Brother stories or drinking Bosco. Our guy was Sheriff Sid and he sold Dean's Farm Milk. But I never got to see the program.

I just wonder if Mrs. Wartella, Mr. Sheehan uses an example and reeled off about six or eight programs where children enjoy those shows.

Do you see any difference between children's programming in those shows and the way they treat commercials as you've reviewed over your research and data?

Is there any difference between commercials on those programs and commercials on children's TV programming time?

Ms. WARTELLA. I would have to defer to someone from the industry. But I know that my memory says that during prime-time, there are fewer minutes of advertising on than during Saturday morning, for sure, than during other times during the week.

That's my memory, but somebody from the industry would be able to correct me on that.

Mr. BRUCE. Mr. Sheehan, I don't get to watch much television, either. But when I watch with my 11-year-old——

Mr. SHEEHAN. I trust you watch the Cubs back in your office, though.

Mr. BRUCE. Right. Thank God for WGN.

There is culture here in Washington, as long as you can watch the Cubs.

I'm curious. When I watch Bill Cosby, I don't see the kind of TV commercials interspersed with that program that I do when I watch morning television on Saturday with my 11-year-old.

Mr. SHEEHAN. Right.

Mr. BRUCE. Do you see a difference, or is it just me?

Mr. SHEEHAN. The reason I cited that program was, first, the assertion was made of the cognitive ability of 5-year-olds. The reason I cited I cited that program is I wanted to demonstrate the audience size of children ages 2 to 11. And in so doing, to demonstrate to you the complexity of television as to who's watching and the audience composition.

Mr. BRUCE. Right. But cognitive ability to distinguish between program and commercial would largely depend on whether or not there's a great difference between program and commercial, isn't it?

If a 5-year-old is faced with seeing a My Little Pony show and right in the middle of that he gets a boost that says, back in 1 minute, just that fast and then they go right to a commercial, then they come right back onto the program and the commercial is about a toy. And when you're watching Bill Cosby in the evening, the program comes to a fairly definite end and then they go to a program about Buicks or Coca-Cola or something and then they go back to it.

Don't you think that even a 5-year-old would see the difference between those?

Mr. SHEEHAN. I agree with you.

Ms. WARTELLA. Both the amount of time, I think, is less, but also, you're right, the programs and the commercials are very different. The commercials are different. They're not aimed towards children and the kinds of products they want.

And moreover, it's more likely in the prime-time that parents and children will be watching television together, so that the parent might be there to mitigate the advertising or to identify for the children what the advertising is.

Saturday morning is the time when children are more likely to be watching alone and not with parents.

Mr. BRUCE. Yes. Mr. Claster?

Mr. CLASTER. On the My Little Pony example, there are no, as far as we know, My Little Pony commercials in My Little Pony shows.

In fact, we are the only company that I know in the broadcasting industry that specifically forbids the My Little Pony commercials to air in the My Little Pony programs in our contracts. And if they do, it's an incidental mistake by program computers, or station computers.

And I think that Mr. Sheehan will tell you that the commercials are logged by computers.

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Mr. BRUCE. You would have a break which says "Back in a moment," and you would go to a commercial for a toy, not for My Little Pony.

Mr. CLASTER. I'm sorry. I thought you had said that you would have My Little Pony program and then you would have a My Little Pony commercial.

Mr. BRUCE. Do you have any advertisers for your program, My Little Pony, other than other toy manufacturers?

Mr. CLASTER. Absolutely.

Mr. BRUCE. Give me an example.

Mr. CLASTER. Kellogg's, General Mills, General Foods, Mars Candy.

Mr. BRUCE. But you do accept commercials for other toys inside your program?

Mr. CLASTER. For other toys, yes. Yes, but clearly not for My Little Pony.

Mr. BRUCE. Right.

Mr. SHEEHAN. To get him off the hook a little bit, that really wouldn't be his call. It would be the local broadcaster who has purchased his programming in the local market.

Mr. CLASTER. That's correct.

Mr. SHEEHAN. A fairly standard practice, though, is not to run commercials associated with the program in or adjacent to the program.

That's not to say that there wouldn't be other toy-type commercials during those breaks.

Mr. BRUCE. Ms. Wartella, when do children develop the ability to tell a commercial from a program?

Ms. WARTELLA. Somewhere between 5 and 7 years of age, the majority of American children seem to be able to both identify by nonverbal means when you ask them if that was a commercial, and also to say that that commercial wants you to buy something.

The estimates that researchers have given at different ages has been based on different kinds of measuring contexts.

Mr. BRUCE. Mr. Sheehan has talked about the fact that in a market, you don't want to over-commercialize. Are children able to distinguish? Can they get overloaded with commercials?

Can they tune out commercials?

Ms. WARTELLA. My point is that if the child doesn't even know which is the commercial, then they're never going to be able to tune out from the commercials. And so the argument that for young children, the market place will assure that no amount of commercial minutes will be kept low is a rather silly argument.

If the child doesn't know which is the commercial, then they won't tune out when the commercial comes on, and therefore, there will be no audience-driven requirement for restricting the number of commercial minutes.

I might add, also, from all of the evidence that I have seen regarding parent-child coviewing of television, there doesn't seem to be very much parent-child coviewing going on during children's hours.

So that the parent also, I would argue, it's difficult to expect parents to act as brakes to try and limit the overcommercialization.

So, no, I don't think that there's any reason to believe that the market place will restrict the number of advertising minutes directed to young children because young children aren't going to be willing to stop watching.

Mr. BRUCE. Our time is running out, but let me ask you one more question.

A lot of the research on children and children's television commercials were done in the early 1970's, and we rely on that data.

Are the children more sophisticated now? Are things more developed with children where that data is still reliable, or is it unreliable at this point?

Ms. WARTELLA. The research was really, the mid-1970's, late 1970's, early 1980's.

I know of no scientific evidence that indicates that the young children are more sophisticated relative to advertising. And, indeed, given the close connection between the advertising research and the research on what we know about cognitive developmental growth generally, I would expect that there is no reason to believe that children are more sophisticated or that they would be more sophisticated today.

Mr. BRUCE. Mr. Sheehan, do you want to jump in?

Mr. SHEEHAN. Yes, sir. I'm not a social scientist, but I submit to you that since the late 1970's, you've had approximately the number of independent stations go from 75 to 310. Your cable penetration has reached—they've passed over 80 percent of the homes in the United States with over 50 percent acceptance. You've had the revolution of the VCR.

I rattle all that off to say that the viewing options, you have to look at a brand-new video environment. It's totally different.

Mr. BRUCE. But do you have any evidence that shows that kids are any different between 1977 and today?

Mr. SHEEHAN. No. I think kids are kids. I think perhaps if the chairman——

Mr. BRUCE. You've explained a great deal more choices, but you didn't—the question is are they really any more different? Is the data invalid or do you think that——

Mr. SHEEHAN. I really can't speak to that. I'm not a social scientist.

What we have seen is a definite migration of kids away from over-the-air broadcasting and we're searching and trying to go find them and bring them back.

Mr. BRUCE. As adults have done the same thing.

Mr. SHEEHAN. Right.

Mr. BRUCE. One final question. Ms. Wartella, do you have any evidence that shows that if kids and parents were given a choice between programs that had more commercials and programs that had fewer commercials, that they will make any reasoned choice between those two?

Ms. WARTELLA. I know of no evidence that children would stop tuning out of programs because they had too many commercials. But I suspect that parents would be very thankful to be able to turn on television with programs which had fewer commercials.

I, as a parent of a 5-year-old, would be very thankful of that.

Mr. BRUCE. Thank you, Mr. Chairman.

Mr. BRYANT. Mr. Sheehan, a moment ago, you responded to Mr. Claster's comments about control over advertising time by pointing that he, as a producer, wouldn't really have much to say about what kind of advertising went on.

Mr. SHEEHAN. That's right, sir.

Mr. BRYANT. But instead the station would. However, that causes me to ask you about the barter system in children's television.

Correct me if I'm wrong, but I understand that there is a system in which producers of these programs will provide the programming free of charge to the station in return for an allocation of a portion of the advertising time.

Mr. SHEEHAN. That's right. That's how barter works. It's ad hoc networking.

Mr. BRYANT. OK. About how many minutes would the producer normally barter for?

Mr. SHEEHAN. It depends. We just took a show from the Disney people which will be the new Chip and Dale and it had a very severe barter break. But we very much wanted the show and we took it.

I can get those numbers for you. I believe it's 3 minutes a barter, I believe.

Mr. BRYANT. My understanding is that quite often they get 4 to 7 minutes of advertising time.

Mr. SHEEHAN. The shows are being cut, sir, longer than the old shows used to be. That is correct.

Mr. BRYANT. Now, I'm asking a rhetorical question, but I want you to feel free to argue with the obvious implication of the question.

If a producer like Hasbro decides to bargain with your station on a barter system in order to get advertising time in return for giving you the show free, what kind of advertising are they likely to run in that period?

Mr. CLASTER. Do you want me to answer that, Shaun?

Mr. SHEEHAN. Yes

Mr. BRYANT. No, I'm asking Mr. Sheehan. I'll come to you in just 1 second.

In other words, if a toy producer that has——

Mr. SHEEHAN. No, I understand. I think it's a very good question. I do understand the question.

We also happen to own a barter sales company. We own it jointly with the Cox Company. The inference I got—maybe I'm wrong, but what we go is for the best CPM we can get, the best cost per thousand that we can get from a national advertiser to deliver. That's what we're in business for.

And it would be, if it's a kids' show, I would suspect it would be Mars. It would be the types of advertising that you would associate with children's programming, appealing to a child's audience.

Mr. BRYANT. Well, very obviously, if somebody's in the business of producing children's television programs and selling toys barters with you and gives you the show free that happens to have a toy for a character and gets back in return time to advertise on your station for free they're going to advertise that toy. Isn't that logical?

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Mr. SHEEHAN. No. Within our contract terms, and now I'm speaking to my company, we would not allow that.

Mr. BRYANT. Your answer was with regard to your station alone. And your answer was what?

Mr. SHEEHAN. We would not allow that on our air. You mean a specific ad for the character associated with the program or clearing within the show?

Mr. BRYANT. Yes.

Mr. SHEEHAN. We will not allow that.

Mr. BRYANT. OK. But you're speaking for your station only, I think.

Mr. SHEEHAN. Yes.

Mr. BRYANT. Is that the case throughout the industry?

Mr. SHEEHAN. I'd rather defer to the person that's in that business.

Mr. BRYANT. Well, I'm going to go right to him. But what's your answer? Do you know if it's the case throughout the industry as a representative here today of INTV?

Mr. SHEEHAN. I would have to ask INTV to respond to you, sir. I really don't know.

Mr. BRYANT. You don't know. OK, fine.

Mr. SHEEHAN. I can't speak for them on that specific question. I think it is, but I don't wish to mislead you.

Mr. BRYANT. Mr. Claster?

Mr. CLASTER. Yes. Congressman, yes, it is true throughout the industry that there is no commercial of a similar nature to the television program itself.

In fact, as I said before to Congressman Bruce, and perhaps I didn't understand his question, but we prohibit it in our shows.

In other words——

Mr. BRYANT. Are you speaking just for your company or are you speaking for the whole industry?

Mr. CLASTER. I'm speaking—I can't speak for the whole industry.

Mr. BRYANT. Are you expressing an opinion about the whole industry or are you only telling me what your company does?

Mr. CLASTER. Well, I can tell you what my company does and I can give you my observation of what the industry does.

My company does not allow it in its shows specifically by contract with the television stations, which means that even if it were not a My Little Pony toy product, but a My Little Pony T-shirt, it wouldn't get in the show.

Mr. BRYANT. What I'm confused about is you say your contract doesn't allow it. I'm talking about a company that produces programs and also sells toys, and you go and barter with them, give them free programming and they, in turn, give you free advertising time.

What's to prevent you from advertising in that free advertising time the same product that's on the program?

Mr. CLASTER. I think that self-regulation has prevented it because it does not happen in the industry. It does not happen.

If it does, it's incidental.

Mr. BRYANT. Ms. Charren?

Ms. CHARREN. I think the industry says it doesn't happen. The one illustration that we had on this little tape was serendipity. We

weren't looking for that problem. But the Transformers show—is that a Hasbro toy, Transformers?

It says in my thing it's a Hasbro program, in my list. I wasn't saying that to be nasty. I got nervous. All I have to do is accuse you of doing it and you just said you didn't.

The fact is that John Claster didn't do it; the station did it. And stations do it all over the country. Somebody did a study. I think Dale Konkel did a study showing just how often that happens.

Now, it doesn't happen, I think, on purpose. Actually, the stations don't decide to do that. But they don't have a real protection in place that keeps even John Claster's stuff from getting into John Claster's programs in spite of the agreement.

Maybe what I should do every time I see one is call John. But it shouldn't be up to me to control that kind of problem and it does happen.

But the fact is that when the toy company barters, the ad for My Little Pony will be in another program. To me, that is just as bad. I mean, granted, the kid might have more trouble telling the program from the commercial if it's in the program. On the other hand, the program looks so much like the commercial, that they might not even realize that there's a sales pitch.

I think that the practice of not doing it helps the industry more than it helps the child.

Mr. BRYANT. Mr. Claster, does Hasbro place commercials for other Hasbro products on bartered shows?

Mr. CLASTER. Yes, they do. They do.

Mr. BRYANT. Let me take this into——

Mr. CLASTER. Can I add one thing on that, please?

Mr. BRYANT. Yes, if you'll hurry.

Mr. CLASTER. We buy that much as Mr. Sheehan indicated. When we buy barter advertising time, we tried it like network, which is really what when you buy national advertising time is all about at the moment.

Mr. BRYANT. OK. Let me take this into a little different area here.

In 1979, Mr. Claster, on behalf of Romper Room Enterprises, you filed comments with the FCC in which you stated that, and I'm quoting here directly from your comments, "Basic language skills and patters are set by the age of four. Many youngsters from ethnic minorities have unnecessary problems in school because they have not been exposed at an early age to literature and language which is the American heritage. Both conceptually and grammatically, these children lose the general reference basis for future learning.

"Instructional television can play an important part in creating a bridge between language skills learned by children of ethnic minorities and in educationally-deprived homes and the skills these children need when they leave home and when they enter the classroom environment."

I assume you still believe that.

Mr. CLASTER. Yes, I think that's true still.

Mr. BRYANT. OK. Do you think that G.I. Joe and He Man serve that function for culturally and economically-deprived children?

Mr. CLASTER. I don't think that we've designed those shows to do that, no. Those programs—well, I can't speak for He Man, but——

Mr. BRYANT. Well, your answer was no, I think.

Mr. CLASTER. Yes. But for G.I. Joe, G.I. Joe is not intended to be an informational show. It's intended to be an entertainment show for children.

Mr. BRYANT. OK. Do you believe that today there is a sufficient amount of programming on the air that fulfills the function which you called for in those 1979 comments?

Mr. CLASTER. Well, I think in 1979, the market place was very different than what it is today. I think even we did not anticipate the explosion in the video market place with VCR's and cable television.

Mr. BRYANT. No, we're just talking about television.

Mr. CLASTER. I understand.

Mr. BRYANT. We're not talking about VCR's.

Mr. CLASTER. I was going to get to that. And most importantly, I was going to say, is independent television.

In 1979, I think, and, again, I'm going without pure data, that there were approximately 60 independent stations in the United States at that time. Maybe that's high. And that now, there are more than 300 stations on the air.

Mr. BRYANT. We recognize that. My question still remains—do you think that there's a sufficient amount of programming on that fulfills that very noble function you called for about 9 years ago?

Mr. CLASTER. Well, I can honestly tell you that we have done no study of that, which we had done an exhaustive study at that time.

So I really would feel much more comfortable answering that question after we looked at that question.

Mr. BRYANT. So you don't know.

Mr. CLASTER. I don't know.

Mr. BRYANT. OK. I would observe also that—as you draw VCR's into this in order to, I guess, avoid answering directly here—the very people you talked about in 1979, the underprivileged children are the ones who are least likely to have the VCR's in their homes, or be able to afford a $25 or $30 movie, or go down and rent one, or even get to have the credit to rent one down at the rental store.

There have been arguments over the years that it would be impossible to define what an educational or instructional program would be. You, however, had a very clear definition in mind in 1979. I will read it to you.

"Programs designed in association or cooperation with educational institutions, libraries, museums or similar organizations to enhance the understanding or further an appreciation of literature, music, fine arts, history, geography, and the natural, behavioral or social sciences."

A good definition, it appears to me. Do you still think that's a good definition of educational and informational programming?

Mr. CLASTER. Yes, I would say that that is a good definition.

Mr. BRYANT. Thank you. Any further questions?

Mr. Tauke?

Mr. TAUKE. Just one question. Ms. Wartella, you have spent quite a bit of time telling us that young children below the age of

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five, or five and below, do not differentiate between commercials and entertainment.

What's wrong if they can't, if they think a commercial is entertainment?

Ms. WARTELLA. I've tried to explain that. My position is that if a young child can't identify what an advertisement is, then there is no mechanism in the market place to ensure that the amount of advertising time won't continue to go up and up and up and up during children's hours, that the argument the FTC has made is that we won't get overcommercialization during children's television time because the market place will assure that children will tune out when there are too many advertisements.

I'm saying that that's a false argument because the young child can't identify which is the ad.

Also, let me just say relative to advertising that it is not just industry self-regulation that prohibits a Transformer advertisement from appearing within a Transformer television show.

The FCC mandated that such host-selling practices should be banned on television and those FCC regulations prohibiting host-selling are still in effect today.

The argument against host-selling, I might add, is the same argument I'm making. If the child can't tell the difference between the advertisement and the program, then host-selling techniques clearly will confuse the child even further by having the same characters in each.

Mr. TAUKE. If the child can't understand the difference between the commercial and the entertainment in the programming, is there some harm to the child from more commercialization?

Ms. WARTELLA. I think "harm" is a strong term. I think the question is whether children then are fair targets of advertising. That's a very different issue from the issue of overcommercialization.

If you want to talk about harm, I think it's more a question of we have a wonderful medium here that can do much good in children's lives. We're worried about children. I want my children to grow up in the healthiest way possible.

I don't think it's healthy that they can't distinguish these.

Mr. TAUKE. Then let me pursue this one to five thing again. Is there any evidence to suggest that, in fact, the one to five group would be the group the commercials would be directed toward, anyway? Or would it be the six to eleven group perhaps that the commercials would be directed toward, and since they understand the difference, then wouldn't they be the check on overcommercialization?

Ms. WARTELLA. As I was trying to say, there are two issues involved in understanding. One is the issue of identification and clearly, children under the age of five are the children with the greatest difficulty identifying an advertisement as different from a program.

The other issue about understanding has to do with whether or not a child is capable of being a wary consumer; that is, recognizing that the advertisement is trying to sell a product, recognizing, therefore, that the advertiser has a point of view, recognizing, thirdly, that because the advertiser has a point of view, he or she

may be biased in the sort of messages that are coming across, and fourth, that consequently, the viewer needs to have certain different sorts of interpretation skills. You have to think about what's being said about the product in these advertisements.

Certainly, you have to bring to an advertisement different interpretation skills than you would bring to watching a television program with Mister Rogers.

The point is we expect these things among adults. Adults are "wary." They can look at the claims being made in an advertisement and judge them because they have the abilities to engage in such judgment.

The argument that I've tried to make in my testimony based on the social science evidence is that there is much dispute whether or not even children older than age 5, maybe going up as old as age 9 or 10, are capable of such wariness when watching advertisements.

Consequently, it may be that such——

Mr. TAUKE. So, for the five to eleven group, there may be harm, you're suggesting, in that they aren't wary consumers.

Ms. WARTELLA. I'm trying to avoid using the term "harm" because then you're asking me, does it somehow cause them some health problem.

I don't want to use that term.

Mr. TAUKE. No, I'm not trying to be picky about that.

Ms. WARTELLA. I'm trying to say that they may not understand, consequently, advertising. The older, 6 to 10 year-olds, also may be deficient relative to an adult in understanding advertising in this wary context.

Mr. TAUKE. And not to beat a dead horse, but just to back up 1 minute.

On this question, then, of the market place, if one through five, they can't understand the difference between a commercial and entertainment, directing your commercial toward them probably wouldn't make a lot of sense.

So I assume then the question is you're directing the commercial to the six to eleven group, perhaps, if they understand the difference, do they provide some check on the total amount of commercials within by tuning out if there are too many?

Ms. WARTELLA. By understanding, I'm saying that we want the child to understand that the advertiser wants to sell them a product and has a point of view in doing so.

Children understand that there are products on TV that they see and that when they go to the playground, other children are talking about their products or if they go to the store, those products are there.

I'm not saying that advertisements are ineffective with children. Clearly, they are effective. Four, 5, 6, 7-year-olds ask for the products they see on TV. And they ask for them whether they're watching the show, I might add, or they're watching the advertisement, which advertisers and marketers know quite well.

So there's a difference here between saying that because the child isn't able to identify the advertisement for the program, therefore, they won't want the product.

That's simply not the case. They still want the products.

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Mr. TAUKE. I appreciate your clarifications of that. Thank you, Mr. Chairman.

Mr. BRYANT. Thank you. And thank you very much to the panel for being here today. On behalf of all of the members of the committee, I want to tell you that we appreciate your participation.

At this time, the Chair would call to the witness table Panel No. 2: Mr. Robert Chase, a member of the executive committee of the National Education Association; Mr. Wallace Jorgensen, chairman of the board of the National Association of Broadcasters; and Ms. Geraldine Laybourne, executive vice president and general manager of Nickelodeon.

We would urge you to stick to a 5-minute statement. We'll begin going from right to left, beginning with Mrs. Geraldine Laybourne, executive vice president and general manager of Nickelodeon.

Ms. Laybourne?

STATEMENTS OF GERALDINE B. LAYBOURNE, EXECUTIVE VICE PRESIDENT, NICKELODEON; WALLACE JORGENSON, CHAIRMAN, NATIONAL ASSOCIATION OF BROADCASTERS; AND ROBERT CHASE, EXECUTIVE COMMITTEE MEMBER, NATIONAL EDUCATION ASSOCIATION

Ms. LAYBOURNE. Mr. Chairman, I also have a tape with me that I believe the committee understands I'm going to play after my 5-minute remarks.

Mr. BRYANT. Very well. Proceed. Would it be best before or after?

Ms. LAYBOURNE. After my remarks. Mr. Chairman, thank you for giving me the opportunity to testify today on behalf of America's kids.

Nickelodeon, the first network for kids, was launched in 1979. At the time, we believed the state of children's television could never be worse. We were wrong. In a lot of respects, it is worse. We agree with Congressman Markey.

There is no doubt that commercial television has failed to respond to the needs of today's children. In fact, part of Nickelodeon's success has come from the void that continues to exist in terms of delivering kids a varied TV menu.

Before addressing the specifics of the proposed legislation, let's step back and ask a broader question, and I believe the important question: "What can television do for kids?"

Today's kids are different than you and I were growing up in the 1950's. We grew up in homes where fathers worked, mothers served tomato bisque, and parents stayed married. We grew up looking forward to growing up. If you asked an 11-year-old how old they were, they told you they were almost a teenager. They looked forward to claiming that title. Today's kids feel pressured, hurried, frightened and scared of having to deal with the problems that teenagers face. They've heard about teenage suicide, drunk driving, teen pregnancy and drug addiction, and they are scared.

There are very few places on TV where kids can just be kids. In general, kids are portrayed on TV as being perfect, precocious, wonderful people. And as adults, we see these kids on TV and expect the same from ours. Our expectations contribute greatly to

the amount of pressure on kids. We expect them to solve adult problems, to behave like adults, and we often lose sight of their special needs.

What can television do for kids? As you'll see from the tape that I'll show in a few minutes, we think television can be a very positive influence for kids. It can provide information kids care about. It can give them their own voice and help them feel comfortable with their self-image.

It can help kids to solve problems.

It can use humor to put life's stress into perspective.

It can stimulate curiosity, creativity and excitement.

It can let kids be kids and be proud of that.

We've been able to accomplish some of these things at Nickelodeon because our mission is to uncover: what can television do for kids. Our orientation has always been pro-kid. We spend a lot of time with kids. Listening to them is our number-one agenda. Aside from conducting hundreds of focus groups each year, we also brainstorm with kids in the development of new shows. We founded the Nickelodeon/Yankelovich Youth Monitor, which is the most comprehensive nation-wide study of kids' attitudes, to further understand them. And, by the way, that study should help answer some of the questions that were raised in the earlier panel in terms of how kids have changed.

We continue to believe that the answer comes from the kids themselves and the market place. Legislating an amount of educational time could lead to broadcasters simply fulfilling a government requirement without doing anything really positive for kids. They could schedule tired, cheap educational programming at 5 a.m. in the morning and we'd be no better off than we are today.

Besides that, our experience has taught us that educational programming has a lot of trouble attracting viewers. And if kids don't turn it on, what can it do for them?

As kids advocates, we have trouble with the standard myths that broadcasters repeat and repeat.

Here are three of them: Kids love commercials—too much is never enough; kids only like animation; kids only like one pace—fast.

For us, there is no only where kids are concerned. But there is too much. And in the market place, kids are saying that, with their ratings voice and in focus groups.

They're tired of the same old animation shows that aren't thoughtfully produced. They're tired of shows that appeal to just boys and shows that just appeal to girls. They're tired of shows that aren't funny. And they are tired of too many commercials. Kids are asking for, and they deserve, better.

The standard commercial load for adults is 12 minutes per hour. Broadcasters are pushing 16 minutes an hour on kids, and I submit that they are having ratings problems in connection with that.

We've made a decision to run only 7 minutes of national commercial time on Nickelodeon because we feel the uncluttered environment is good for both our viewers and our advertisers. We also believe that we are seeing a demise of the overcommercialized, product-based programs. We predict that the market place will continue to learn what's good for kids is also good for business.

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Today, we sit here with a challenge—what can we do for kids' television?

First, I think that Congress needs to continue to keep the spotlight on these issues in the exact way that you're doing with these hearings.

Second, television programmers need to take responsibility for providing shows that stretch kids' and producers' imaginations. They will discover the enormous business benefits of inventing fresh ideas.

Third, broadcasters cannot be let off the hook by the contributions of the cable industry.

And finally, the media needs to devote more attention to the issue. Thanks to Action for Children's Television's relentless advocacy for kids, these issues have reached the American people. But we need more positive reporting.

I now have the pleasure of giving you a small taste of Nickelodeon, the proof that TV that's good for kids does not have to be bad for business.

[A videotape was shown.]

Mr. JORGENSON. Mr. Chairman, might I observe facetiously, that looks an awful lot to me like a program-length commercial.

Mr. BRYANT. Thank you very much, Ms. Laybourne.

The Chair recognizes Mr. Markey for questions.

Mr. MARKEY. Thank you very, very much.

I just wanted to thank Nickelodeon for preparing that for our committee and thank all the witnesses for their participation here today.

I'm going to try to stay here through the balance of the testimony here, but I just at that point wanted to interject and thank you very much for the effort you put into that.

Thank you. Thank you, Mr. Chairman.

Mr. BRYANT. Mr. Jorgenson.

STATEMENT OF WALLACE JORGENSON

Mr. JORGENSON. Thank you, Mr. Chairman. I'm president of Jefferson-Pilot Communications Company out of Charlotte, North Carolina, in addition to being joint chairman of the board of the National Association of Broadcasters. I appreciate the invitation to be present at today's meeting.

I'm here today to discuss the programming requirement of H.R. 3966, sponsored by you, Mr. Chairman. In my longer statement, I also address advertising issues found in H.R. 3288, as well as H.R. 3966. And I'm prepared to respond to questions on both issues.

Title II of H.R. 3966, which requires a minimum of 7 hours of informational or educational programming, is not new. There's a history of congressional interest in imposing programming requirements on commercial television broadcasters.

The broadcaster response is also well documented: We are meeting our obligation to children; we also recognize the abundance of video alternatives available to compete with existing children's programming; and we reject the assertion that we have deserted children in search of more profitable programming.

Mr. Chairman, the work of the broadcast industry both at the local and the national level reflects our interest in ensuring that today's children will grow with new knowledge, positive values, and an appreciation for the world around them. We have not, and will not, desert our young.

As an example, I have attached to my written testimony the "Television Idea Book" published by the NAB. While this is not a complete picture, it does provide you with a clear summary of the effort that's placed in children's programming around the country.

Much of the programming listed is produced locally, and reflects the ability of broadcasters to develop shows which are tailored to the immediate community and also successfully meet competition from other sources. And there are like some hundred examples in that book.

NAB's Children's Television Committee has for years encouraged and honored local broadcasters for their work in children's programming.

I think it's also important to avoid the temptation to pigeon-hole programming. There is little question that as part of our general public interest responsibility, broadcasters must provide programming that is targeted to and written for the young. This goes beyond simply categorizing "children's programming."

Many programs viewed on commercial television and public stations today, while not children's per se, are developed for a younger audience.

This is also programming intended for children. Examples are NBC's "Family Ties," "Growing Pains" on ABC, and CBS's "Kate and Allie." These shows give to the child and the family an appreciation for traditional family values and an examination of the problems that confront children and families.

As has been discussed here, in 1974, the FCC issued a report and policy statement on children's television. In it, the FCC explicitly rejected the notion mandating a set quantity of children's programming. The FCC recognized the First Amendment interests involved and suggested that the broadcasting profession has the ability to develop imaginative and exciting ways to provide informational and educational programming to children.

We accept the underlying premise of the 1974 statement and we remain convinced that broadcasters have fulfilled those requirements and will continue to do so. At the same time, we recognize that the world of 1988 is vastly different from the one which existed in 1974. Children watch less broadcast television today. There are many alternatives like cable and video which actively compete for the viewer's attention.

I have attached to my written report a report by Dr. Richard Ducey of NAB's Research and Planning Department entitled, "The Children's Video Marketplace." It documents the competitive world in which broadcasters now exist and the abundance of choice provided to today's young viewers. I commend it to you for your study.

Now I'd like to make an additional observation. It's the one which takes into account a potential Catch-22 inherent in H.R. 3966. The authors suggest that broadcasters have the obligation to present a required amount of specific type of programming for chil-

dren. They also suggest that we should limit the amount of advertising in children's programming.

In effect, Congress is suggesting we increase our production costs while reducing our potential revenue stream.

In the face of a declining audience for c[illegible]gramming, caused in great part by the many comp[illegible]ctives that we've discussed, those conflicting requirements [illegible] pose an extremely difficult burden and are part of the reason we oppose H.R. 3966.

And finally, Mr. Chairman, we're all aware that the FCC is now in the process of reviewing and has not yet completed its work on its docket concerning this issue. We encourage you to consider whether legislative action is therefore premature at this time.

Mr. Chairman, we do not see a need to legislate. Nonetheless, we remain prepared to continue our discussions with the committee on the legislation currently introduced.

I thank you for your time and for the opportunity to testify. Thank you, sir.

Mr. BRYANT. Thank you very much for being here.

[Testimony resumes on p. 303.]

[The prepared statement and attachments of Mr. Jorgenson follow:]

TESTIMONY OF WALLACE JORGENSON
PRESIDENT, JEFFERSON-PILOT COMMUNICATIONS COMPANY

Thank you Mr. Chairman. My name is Wallace Jorgenson, I am President of Jefferson-Pilot Communications Company. I am also Chairman of the Joint Board of the National Association of Broadcasters (N.A.B.)[1]. For myself and the NAB I want to express our appreciation for the invitation to attend today's hearing. I know that you and several of your colleagues on the subcommittee feel very strongly that there is a need for action on these issues.

Regrettably, there still appears to be a vast difference of opinion between those views and the opinions held by commercial television broadcasters as members of the NAB. The NAB strongly opposes both H.R. 3966, introduced by Representative Bryant of Texas and H.R. 3288 by Representative Bruce of Illinois.

Although I appear on a panel concerned with the programming requirement found in the Bryant bill, I will, in my statement address both the programming and advertising issues found in these two bills. Further, I welcome questions on both issues from the members of the subcommittee.

For a number of years Members of Congress have introduced legislation to impose a programming requirement on all commercial television broadcasters similar to that found in Title II of H.R. 3966, that is, a minimum of seven hours a week of informational and/or educational programming for children. In response to these proposals broadcasters have pointed out that we are meeting our obligation to children. In addition, there is an abundance of video alternatives available for children. We also have rejected the often stated belief that commercial broadcasters have "deserted" children in search of greater wealth or profits elsewhere. These views, which we have stated in previous

1. The National Association of Broadcasters is a non-profit trade association representing over 5,000 radio and 950 television stations, including all the major networks.

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hearings on this subject are as true today as when first discussed.

Despite the attempt found in H.R. 3966, to disassociate commercial broadcasting from its media competitors[2], the plain fact is that there is an abundance of children's programming available to view. Commercial broadcasters, public television, cable television and video cassette all provide a mixture of programming for children designed to educate, inform and entertain. It may be that some of that programming does not fulfill all of those qualities. You and I may well agree that some of the programming does not, in our opinions, fulfill any of those qualities. However, personal opinion, by itself, is an insufficient justification for imposition of this burden on commercial television licensees. Please remember that success or failure of a given program depends on the audience it achieves, less popular programs in any of the media I have mentioned will not last long.

Further, it is important to remember that children's programming is developed much like other programming. For commercial broadcasters this means purchasing almost all programming on the open market. The success or failure of a given program is measured by the audience response which determines the rates a broadcaster can charge for advertising. What may have worked in times past, what may have been popular, may not succeed today. The opposite it also true, just because a program is new, there is no guarantee of success. This is an evolving marketplace and a highly competitive one where children and their parents are the final decision makers on the programming to be viewed.

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2. H.R. 3966, 100th Cong., 2d Sess. Title II § 201(6) (1988).

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Commercial Broadcasters and Children

Commercial broadcasters have not and will not desert children. Our work considered locally and nationally reflects our interest in ensuring that today's children will grow up with knowledge, positive values and an appreciation for the world around them. I have attached as part of this testimony the "Television Idea Book" published by the NAB and compiled by our Television Department. While not meant to be the complete picture of work done by commercial broadcasters it will provide the subcommittee with an idea of the effort that goes into children's programming. Much of the programming listed is locally produced and reflects the ability of broadcasters to develop and tailor programming to their local communities in the face of competition from other sources.

The compilation reflects a wide variety of programming formats, including the use of games and contests, news features, group science experiments and story telling or reading. In addition to what is developed locally, network programming is also part of the children's programming mix, such as NBC's "Main Street." All three of the commercial networks provide children's programming that educate and inform children.

The NAB's Children's Television Committee, currently chaired by Glenn Wright of KIRO-TV of Seattle, Washington, encourages and honors local broadcasters for their work in children's programming.

However, I think it is important that we avoid the temptation to "pigeonhole" programming. There is, in my opinion, little question that as part of our public interest responsibility broadcasters do provide programming that is targeted to and written for children. Yet there is more than just what has been called "children's programming." Much

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programming viewed on commercial television and public stations today while not "children's" per se, is nevertheless worthwhile for children to view. This is programming intended for children and parents. By example, NBC runs on Sunday, "Family Ties," ABC has "Who's The Boss" and CBS on Monday shows "Kate & Allie." These shows give to the child and to the family an appreciation for traditional family values, of the individual and an examination of the problems that confront children and families. The most popular on television today is "The Bill Cosby Show" which imparts to children and parents these very themes.

Furthermore, commercial broadcasters have for a number of years undertaken the development of public service campaigns designed to reach children of all ages. Campaigns concerned with alcohol or drug abuse, the dangers of smoking, the value of staying in school and safety at home and in the community are targeted to children of varying ages. Often these campaigns are multifaceted in that there are public service announcements (PSA'S), perhaps locally produced programming as well as other activities that are run during the weekend or in the schools. This reflects one of the basic values of our system of broadcasting. It is the local broadcaster working with others in the community, providing programming at the station in a way that the local residents will value. As we have stated before this subcommittee and in other forums as well, the ability of the local broadcaster to serve the local community makes good sense and is equally good business.

The broadcaster can choose from a variety of sources to program for children as he/she would for any other portion of the local population.

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The Video Marketplace

In 1974, the FCC issued a report and policy statement on children's television.[3] In it the FCC explicitly rejected the notion mandating a set quantity of children's programming. The FCC recognized the First Amendment interests involved and suggested that the broadcasting profession has the ability to develop imaginative and exciting ways to provide informational and educational programming to children.

The world of 1974 in video programming bears little in common with the world of 1988. The developments over the past 14 years were, in all likelihood, never contemplated by the FCC which issued the policy statement. I am attaching as part of the prepared testimony of the NAB, "The Children's Video Marketplace" prepared by Dr. Richard Ducey of the NAB's Research and Planning Department. This report by Dr. Ducey was also part of the NAB's submission to the FCC on February 18, 1988[4].

This is not to say that broadcasters reject the underlying premise of the 1974 policy statement, that broadcasters have a duty to "develop and present programs which will serve the unique needs of the child audience."[5] As I briefly outlined above, we remain convinced that the broadcasters have fulfilled the requirement of the 1974 policy statement and will continue to do so. Yet, it is not sufficient to sit in judgment of the commercial broadcaster armed with the policy statement of 1974 without close examination of the competitive world of today in

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3. Children's Television Report and Policy Statement, 50 F.C.C. 2d, 1974.

4. MM Docket No. 83-670, Revision of Programming and Commercialization Policies, Ascertainment Requirements, and Program Log Requirements for Commercial Television Stations.

5. Children's Television Report and Policy Statement, 50 F.C.C. 2d 5, 1974.

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which the commercial broadcaster exists. It is for that reason that I commend the report of Dr. Ducey to you for review.

As a reflection of the changes in the video marketplace, the attached report clearly shows that children are watching less television than they used to but that overall viewing among other groups is up. Children will watch television, in particular after school, but that there are other programming outlets, cable and VCR, which will compete with broadcasting for children's time and attention.

The change in children's viewing habits is reflected in the growth of the broadcast industry as well as its competitors. In January, 1975, there were 953 stations on air, at the end of 1987, there were 1,342 stations on air. This 40 percent growth was most pronounced among independent commercial stations. This growth in broadcasting outlets is reflected by the fact that 71 percent of all television households receive 9 or more stations, whereas in 1974 only 31 percent received 9 or more signals. Today only 3 percent of all television households receive less than 5 stations.

Cable television has also experienced dramatic growth since the issuance of the 1974 policy statement. Today approximately 80 percent of all television households could receive cable service if they so desired (homes passed). Over 50 percent of television households in this country currently subscribe to cable television services.

Perhaps the most explosive growth in the video marketplace has been in the penetration of video cassette recorders (VCRs). Where there was 0 percent penetration in 1974, today over 53 percent of television households have videocassette recorders. VCRs are more prevalent in households with children. VCRs have enabled parents to rent, buy or record programming for their

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children. Many parents appear to record programs from broadcast stations or cable services to provide to their children a "library" of programming for the child to use. In addition to taping, the rental or purchase of prerecorded video cassettes continues to grow. By 1990, it is estimated 52.2 million video cassettes of children's programming will be shipped to retail outlets, this represents 21 percent of all prerecorded cassettes in 1990 and is worth approximately $472 million.

What is clear from the above discussion is that the children's television market is a fully competitive one in which both children and parents face an abundance of choice. The problems faced by broadcasters in this market are significant. There is a smaller audience per children's program that appears on the over-the-air broadcast station. Costs for the production of these shows are rising rapidly. In 1983, the average cost of a network children's program was $80,000 but in 1986 that cost rose to $220,000, or an increase of 175 percent in three years. This is especially burdensome when you recall that broadcasters recapture costs of operation solely through the sale of advertising time. The broadcaster is confronted with the problem of a declining audience share, therefore, lower advertising revenue potential and higher costs for the programming to be aired. The recent INTV study confirms this problem, reporting that 39 percent of the stations surveyed indicated a reduction in the amount of children's programming to be aired in the future.[6]

This current situation of declining audience, increased expenses and greater competition facing the commercial broadcaster raises serious questions about the goal of H.R. 3966. The text of H.R. 3966 makes it very clear that it will reduce advertising revenue possibilities, yet increase the production

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6. "Programming: Betting the Whole Bundle," INTV, Washington, D.C., 1987.

costs for each commercial television broadcaster already faced with less of an audience than once existed. In that light, the NAB believes that enactment of H.R. 3966 would impose an extremely difficult burden on all of this nation's commercial television broadcasters and should therefore, be rejected.

Advertising on Children's Programming

Let me turn briefly to the second issue found in H.R. 3966, and in H.R. 3288, the advertising found in children's programming. I will discuss both the question of time limitations as well as the issue of "program length commercials." As already noted, broadcasters are supported in their business enterprise solely by the sale of advertising time, therefore, limitations on the lawful advertising of legal products have been historically opposed by the NAB. At a minimum, those who support such a limitation should be obligated to show where a significant harm exists. To date that has not happened in the discussion of advertising on children's television advertising.

The basic fact is that there is nothing harmful concerning the advertising of products or services over-the-air. Further, there appears to be a lack of evidence that the current complaints concerning advertising in and around children's programming, have posed a harm to the viewers of the program. Absent a showing of a harm, or put another way, a significant governmental interest, it is unlikely that restrictions on the advertising of lawful products would withstand court challenge.

The question of advertising in children's programming was an issue the FCC addressed in its 1974 policy statement. At that time the FCC recommended that commercial time be limited to 9.5 minutes per hour on weekends and 12 minutes per hour on weekdays. The FCC would enforce these guidelines during the license renewal process, in which the renewal form would include a question of

the licensee of whether that licensee had at any time exceeded these guidelines. In the 1984, television deregulation report and order of the FCC, these guidelines were eliminated. The current FCC, based upon a remand from the U.S. Court of Appeals, D.C. Circuit, is again reviewing this issue.[7]

As part of the FCC's review of advertising on children's programming, the NAB has submitted extensive comments as to the current state of the market in both programming and advertising. I am attaching as part of this statement, our survey on commercialization and as I stated before, I recommend that the members of the subcommittee review these data. To the best of my knowledge, it is the most complete survey to date on the issue of commercialization in children's programs.

By way of summary, the NAB survey reveals that the average children's program contained slightly more than 8.5 minutes of commercial time on a per hour basis. Total non-program material time was just over 13 minutes per hour. Finally, over two-thirds of all programs have fewer than 10 minutes per hour of commercials and nearly 9 out of 10 programs have fewer than 12 minutes of commercials on a per hour basis.

These data lead to the conclusion that there is an effective marketplace acting to regulate against the possibility of the over commercialization of children's programming. There does not appear to be a "deluge" of commercials raining down upon the viewers of children's programming.

While we do not see a need to legislate in this area, we are well aware that there are members of this subcommittee, as well as the House and Senate, generally who will continue to push for

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7. Action for Children's Television v. FCC, 821 F. 2d 741 (D.C. Cir. 1987)

legislation. As always, the NAB seeks to work with this subcommittee in improving legislation. There are other concerns in both the Bryant and Bruce bills, which we feel should be addressed. We look forward to the opportunity to discuss this with you at a later date. Also, it is important to keep in mind that the FCC has not yet completed work on its docket concerning this issue. Therefore, any legislative action may well be premature at this time.

There has been a great deal of interest by the Congress in the program length commercial issue, which, for the most part, is programming purchased from syndicators and not provided by the three major networks. Over the past several years there has been a recognition that many characters in children's programming also are available in the toy stores. It is not clear in all cases which came first, the show or the toys and other playthings. Nevertheless, concern has been expressed that this linkage creates over commercialization of children's programming. In fact, critics claim that some shows are aired only as part of a promotion campaign to push sales for the toys and other items associated with the show's characters.

We recognize, as I hope many of you do, that what constitutes a "program length commercial" is difficult to define. Clearly, there are definitions which if overbroad would capture more than is desirable in the rush to regulate this type of programming. However, it appears that once again, the marketplace is acting on its own to regulate. As I stated at the outset of this testimony, the success or failure of children's programming is determined by the audience. The recently released Nielsen Cassandra Report for November, 1987, revealed that children are drawn to programming that is family oriented or of the standard cartoon type. Clearly, many of the more popular

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programs also have marketing licenses as well, but only 1 of the 10 most popular shows are closely associated with a line of action figures.

Summary

The NAB shares the concern of many in Congress and around the country that television be used in a positive fashion for the education and entertainment of children. Our members have continued to perform that function in the face of an increasingly competitive marketplace, in which costs continue to rise and audiences decline. Based upon data we have compiled, there appears to be a self-functioning marketplace which has controlled the possibility of flooding our children with an over abundance of commercials. We respectfully suggest to this subcommittee and the Congress as a whole that there appears to be no need to legislate at this time. Clearly moving in haste is not warranted and the FCC has not yet completed its work in this area. We look forward to working with the subcommittee on this crucial issue and welcome questions.

Thank you.

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THE CHILDREN'S VIDEO MARKETPLACE

Richard V. Ducey, Ph.D.
NAB Research and Planning

I. SUMMARY

The term, "video marketplace" has become familiar to policymakers in the past several years.[1] However, there has not been any thorough examination of a burgeoning submarket in this area, the "children's video marketplace." This market is relevant to the FCC's current proceeding which reopens its television deregulation actions with respect to children's television.[2] This market has evolved substantially, both quantitatively and qualitatively, since the FCC's Children's Television Report and Policy Statement in 1974 and even since the original television deregulation action in 1984.[3] This report delineates some of the broader contours of the children's video marketplace.

In this report, the viewing behaviors of children are reported, a description of the tremendous growth in the availability and distribution of children's programming is presented, the economics of the children's video marketplace are briefly explored and finally, some of the unique marketplace aspects of the children's video marketplace are examined. In conclusion, it is observed that while the children's video marketplace is rapidly growing and healthy overall, the broadcast television component of this

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[1] See for example: "In the Matter of he Revision of Programming and Commercialization Policies, Ascertainment Requirements, and Program Log Requirements for Commercial Television Stations," Notice of Proposed Rule Making, MM Docket No. 83-670, June 29, 1983, at para. 23.

[2] "In the Matter of Revision of Programming and Commercialization Policies, Ascertainment Requirements, and Program Log Requirements for Commercial Television Stations," Further Notice of Proposed Rule Making/Notice of Inquiry, MM Docket No. 83-670, October 20, 1987.

[3] Children's Television Report and Policy Statement in Docket No. 19142, 50 FCC 2d 1 (1974).

is rapidly growing and healthy overall, the broadcast television component of this marketplace has the most delicate economic balance.

II. THE CHILD AUDIENCE SEGMENT (2-11 years)

Demographic Overview

The proportion of households with children is expected to remain stable through 1990. In 1980, there were 33.3 million children from 2-11 years old or 14.7% of the total population. This is expected to increase to 37.1 million children aged 2-11 years or 14.9% of the total population by 1990.[4]

With nearly two-thirds of mothers now working, families have changed over time, kids have more responsibility. A recent Wall Street Journal article pointed out that children not yet in their teens are responsible for things like shopping, cooking, scheduling medical appointments and lessons with a kind of independence which one sociologist dubs, "self-nurturing."[5] While a small part of the total population, children are not irrelevant to the economy. Children 9-12 years old spend nearly all of the "$4.73 billion they get annually in allowances, gifts and earnings," and influence annual spending of over $40 billion by their parents.[6]

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[4] U.S. Department of Commerce, Bureau of the Census, Statistical Abstract of the United States, 1985; and Population Estimates and Projections, June 1984.

[5] Ellen Graham, "As Kids Gain Power of Purse, Marketing Takes Aim at Them," Wall Street Journal, January 9, 1988, p. 1.

[6] Graham, p. 1.

Children's Broadcast and Cable Viewing by Daypart

It may be instructive to review children's television viewing habits as measured by the A.C. Nielsen Company, which reports only on broadcast and cable viewing. Perhaps surprisingly, relatively little of their total viewing occurs during the Saturday and Sunday morning daypart (e.g. only 11-12% in 1987).

Table I. Weekly Broadcast and Cable Viewing Activity for Children.

	PERCENTAGE OF TOTAL VIEWING HOURS			
Daypart	Nov '83		Nov '87	
Age --->	2-5	6-11	2-5	6-11
(Hours Per Week)	(27:09)	(24:50)	(22:58)	(19:47)
Prime Time	18%	27%	22%	31%
M-F 4:30-7:30PM	19%	22%	15%	18%
M-F 10AM-4:30PM	22%	10%	23%	9%
Sat/Sun 7AM-1PM	14%	15%	11%	12%
Sat 1-8PM/Sun 1-7PM	10%	13%	9%	11%
M-Sun 11PM-1AM	1%	1%	4%	5%
Remainder	16%	12%	16%	14%

Source: A.C. Nielsen Company, November 1983, 1987.

As can be seen in Table I, the broadcast and cable viewing of 2-5 year olds and 6-11 year olds has declined 15.4% and 20.3%, respectively, in the period 1983-1987. Viewing for persons 2 years old and over is up overall in the same time period. Thus,

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children are watching less television than they used to and this is occurring in a period when viewing overall, is up. However, these viewing measures do not include VCR viewing of prerecorded tapes.

The Effect of "People Meters"

With the introduction of the people meter by Nielsen in the 1987-1988 television season, a number of controversial developments have occurred. Among these have been the noted decline in children's television viewing. Ratings have declined in other categories, for some program sources more than others. The decline in measured children's viewing is probably at least partially due to the people meter, but there may also be a real viewing decline.

The economic effects of this apparent viewing decline are staggering. The children's Saturday morning daypart is worth $150 million in advertising revenues to the networks, and due to the large apparent decline in children's television ratings (which Nielsen evidently "tacitly admits are seriously off,") the networks may lose $40 million worth of revenues.[7] This has prompted at least one network to consider no longer programming for children 2-11 year olds in this daypart.[8]

Whether or not people meters are accurate, either in sample selection or sample cooperation, there is a wide consensus that children's viewing of broadcast television is down. In a recent survey of television program directors, nearly two-thirds (61.4%) said that there is a decline in children's viewing in their markets.[9] Clearly,

[7] Verne Gay and Julie Liesse Erickson, "Kidvid Tumbles: People Meters Make Rating Dive," Advertising Age, November 23, 1987, pp. 2, 64.

[8] Gay and Liesse, p. 2, 64.

[9] Alfred J. Jaffe, "Kids Viewing Drop Assessed," Television/Radio Age, February 8, 1988, p. 71.

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broadcasters must find out what is happening to their child audiences and discover ways to stabilize or improve viewing levels.

Children's television changing viewing behaviors have impacted independent stations to the extent that the Association of Independent Television Stations (INTV) commissioned its own special study to understand why there has been ppage in after-school viewing of independent stations' children's programming.[10] Among the study's major conclusions are that:

1. Viewing of broadcast television is still a very popular after school activity, but many alternatives (including VCR and cable viewing) now compete for children's time and attention.

2. Children 2-11 are not a homogeneous group. Age and gender differences are reflected in programming tastes. Some older children (particularly in the 9-11 age group) express an interest in more adult or "real life" programming.[11]

III. PROGRAMMING OUTLETS

The Children's "Video Marketplace"

In its original Notice on television deregulation, the FCC developed the concept of a video marketplace, wherein it becomes relevant to consider both the product and geographical dimensions of a particular marketplace. The FCC concluded that, "in

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[10] M/E Marketing, "The Dynamics of Children's After-School Television Viewing," 15th Annual INTV Convention, Los Angeles, CA, January 1988. ("INTV Study").

[11] INTV Study, 1988.

terms of the geographic component, the telev ion marketplace may in a sense be characterized as both a national and a local market."[12]

Thus, when considering the product of children's video programming, it is necessary to consider both local and national sources of programming and all video programming outlets in a market which are substitutable (i.e. competitive with one another). This analysis will be limited to a consideration of currently available broadcast, cable and home video options.

The National Market

There has been at least one study, by Siemicki et al., to quantify the national children's video marketplace.[13] In the Siemicki study, it was found that as of 1984, there were 477.1 hours of children's broadcast and cable programming nationally available for one sample week in October 1984. This included pay and basic cable services, commercial and public television stations and broadcast superstations. Among other things, this study found that for every one hour of children's programming on the networks, there were six such hours available on cable. Home Box Office (HBO) programs about 60 hours per month of children's programming.[14]

Apparently, the national marketplace in children's television has been producing programming which even some skeptics agree is high quality. TV Guide recently asked a group of experts, including network executives, children's educators, consumer

[12] Notice of Inquiry, MM Docket 83-670, at para. 23.

[13] Michele Siemicki, David Atkin, Bradley Greenberg and Thomas Baldwin, "Nationally Distributed Children's Shows: What Cable TV Contributes," Journalism Quarterly, Winter 1987, vol. 63, no. 4, pp. 710-718,734.

[14] Television/Radio Age, August 3, 1987, p. 60.

advocates, clinical psychologists and pediatricians, to name the "best shows on children's television."[15]

While a number of these programs were PBS programs, several were cable network programs, both basic and pay networks. For example, Showtime's, "Faerie Tale Theatre," was described as an "award-winning anthology series." Nickelodeon's, "Powerhouse" and "Standby . . . Lights! Camera! Action!," "You Can't Do That on Television," "Mr. Wizard's World," and "Livewire" were cited as excellent offerings. The "National Geographic Explorer," offered by WTBS-TV, a broadcast superstation, was among the series receiving the highest marks by the panel of experts.

The Growth of Broadcast Stations

The number of local broadcast outlets has increased substantially since 1974 when the FCC issued its Policy Statement on children's television. Overall, the number of broadcast stations has increased from 953 on-air stations, as of January 1975, to 1,285 on-air stations as of December 1986. This is an increase of 34.8% or 332 new stations. Table II indicates the relative growth of affiliates, independents and educational stations in this time period. Clearly, the most dramatic growth has come from independent television stations. More cur[illegible] figures put the total number of stations on-air at 1,342 total stations, or a 40.8% increase in stations since January 1975.[16]

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[15] Armen Keteyian, "Experts Recommend the Best Children's Shows on TV," TV Guide, February 15, 1986, pp. 33-36.

[16] "Summary of Broadcasting," Broadcasting, February 15, 1988, p. 146 (data as of December 31, 1987).

According to Nielsen,[17] in 1986 71% of U.S. television households received nine or more television stations (only 3% of all television households received less than five television stations. In 1972, only 31% of all television households received nine or more television stations.

Table II. On-Air Broadcast Station Growth 1974-1987

Station Type	1974/75	1986/87	% Increase
Affiliates	611	657	7.5%
Independents[18]	100	325	225.0%
Educational	242	303	25.2%
TOTAL	953	1,285	34.8%

Sources: Broadcasting Yearbook 1975, p. A-2 (data as of January 1975), Broadcasting/Cablecasting Yearbook 1987, p. A-2 (data as of December 1986).

Growth of Cable Television

Cable television has also grown, from a penetration level of 11.3% in February 1974 to 50.5% in November 1987, according to the A.C. Nielsen Company. Although one in two television households now subscribes to cable television, it is available as an option to 79.3% of all television households (i.e. "households passed" by basic cable).[19]

[17] 1987 Nielsen Report on Television, Nielsen Media Research, Northbrook, IL, 1987, p. 2.

[18] The Association of Independent Television Stations (INTV) Research Department reports that there were 77 independent television stations in 1974, serving 59% of all television households, and 310 independent television stations serving 90% of all television households in 1988. Telephone call, February 16, 1988.

[19] "Cable Barometer," Cablevision, January 18, 1988, p. 64.

Thus, an additional 28.8% of all television households could subscribe to cable, if they so chose.

According to AGB Television Research figures, as of September 1987 52.7% of television households with children under 12 had cable television service, compared to 51% of the overall population. However, 35.1% of television households with children have pay cable services, compared to 29% of the overall population of television households.[20] This means that whereas households with children now subscribe to basic cable at just over the rate at which all television households subscribe, they are more likely to subscribe to one or more pay cable services.

When cable channels are added to television stations as options, 85% of U.S. television households have nine or more video channels available to them.[21] It is also interesting to note that market size and cable penetration are inversely related, such that in smaller markets with fewer over-the-air viewing options, more households subscribe to cable television.[22]

Basic and Pay Cable Services

Table III indicates the current basic and pay services offering children's programming, and the number of households which are served by each service. WTBS-TV, an independent broadcast station from Atlanta, is carried as a "superstation" by

[20] Universe Estimates for the AGB National TV Ratings Service, AGB Television Research, L.P., New York, NY, 1987, "AGB Universe Estimates."

[21] 1987 Nielsen Report on Television, p. 2.

[22] An NAB Research and Planning Department analysis of "Cable Penetration Estimates May 1987," NSI News, A.C. Nielsen Company, New York, NY reveals a negative correlation of -.321 (Pearson Product-Moment) between cable penetration and number of television households in the market (i.e. market size).

cable systems to 42.5 million homes. The Disney Channel is available in 3.1 million homes.

Table III. Basic and Pay Cable Services -- Households Served

Service	No. TV HH Served (Millions)
BASIC	
WTBS-TV	42.5
USA Cable Network	41.0
CBN Cable Network	37.2
Nickelodeon	35.8
Lifetime	34.0
Discovery Channel	27.4
WGN-TV	23.8
PAY	
Home Box Office (HBO)	15.9
Showtime	5.8
Disney Channel	3.1

Sources: Cablevision, February 1, 1988, p. 64; Multichannel News, February 1, 1988, p. 1.

Growth in Home Videocassette Recorders (VCRs)

The growth in VCR penetration is an impressive story. From zero penetration in 1974 (the VCR was introduced to U.S. consumers in 1975 by the Sony Corporation) to 53.8% in 1987[23] the VCR has easily surpassed the speed with which consumers adopted other new video technologies such as color television and cable television.

Households with children were about a third more likely to have VCRs than households without children according to a 1986 survey by National Demographics and

[23] Arbitron Ratings/Television, November 1987 estimates.

Lifestyles of Denver.[24] According to September 1987 "universe estimates" of the AGB Television Research ratings service, 59.8% of households with children 0-11 years old have VCRs, compared to 48% of all households.[25] Thus, households with children are significantly more likely to have VCRs available. Therefore, households with children were apparently earlier adopters of this technology and still hold a large lead over the rest of the population (only 38% of households with no children under 18 have VCRs according to AGB).

How has this affected the children's video marketplace. Some feel that families are now building up children's video libraries which are "knocking the incoming signal off the screen."[26] In fact, there is some support for this notion. In one study, 30% of those buying VCRs cited "building a library of children's TV shows" as a somewhat or very important reason for purchasing the VCR. After 12 months of using the VCR, 28.7% of this same group reported that building a children's library was still important.[27]

Since viewing prerecorded videocassettes does not count in the syndicated ratings services estimates of television viewing, the overall level of children's viewing credited to broadcast and cable television is affected. One network research head

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[24] Carol Boyd Leon, "Selling Through the VCR," American Demographics, December 1987, pp. 40-43.

[25] "AGB Universe Estimates," p. 3.

[26] Edmond M. Rosenthal, "VCRs Having More Impact on Network Viewing, Negotiation," Television/Radio Age, May 25, 1987, p. 69.

[27] Michael G. Harvey and James T. Rothe, "Video Cassette Recorders: Their Impact on Viewers and Advertisers," Journal of Advertising Research, 1985.

commented that significant playback on Saturday mornings is particularly impacting the networks.[28]

Children's Video Programming

There are really three sources of home video programming for children: (a) rentals, (b) sales, and (c) recordings of broadcast and cable programming. There are literally thousands of home video titles from which parents and children can choose for their viewing pleasure. This affords parents and children the opportunity to be their own programmers, if they so choose. To assist them in this exercise are numerous catalogs and viewing guides.[29]

The children's video marketplace has been described as a very large market. For example, 23.7 million children's videocassettes worth $276 million (18.5% of total number of prerecorded videocassetttes sold) will be shipped to dealers this year. By 1990, shipments will rise to 52.2 million (21%) worth $472 million.[30]

Children's changing tastes are also reflected in this market. Recently, there has been a noticeable shift in children's video programming, "licensed characters are moving over to make room for more original, interactive and educational/interactive kidvid."[31] Many of the major video production and distribution companies are finding that parents are taking a more active interest in children's video programming and

[28] Rosenthal, p. 69.

[29] See for example: Harold Schecter, Ph.D., KIDVID: A Parents' Guide to Children's Videos, (New York: NY, Pocket Books, 1986); Mick Martin, Marsha Porter and Ed Remitz, Video Movie Guide for Kids: A Book for Parents, (New York, NY: Ballentine Books, 1987).

[30] "Vital Statistics," TV Guide, November 12, 1987, p. A-167.

[31] Jim McCullaugh, "Programming Shifts: Licensed Characters Move Over for to Make Room for Original Productions," Billboard, July 26, 1986, p. K-4.

want programming which is high quality, and educational, yet entertaining. This is creating a stronger market for more original children's programming in home video.

IV. CHILDREN'S PROGRAMMING ECONOMICS

Program Production

The great increase in the number of broadcast television stations led to a greater demand for programming. The demand for children's programming by stations also increased. For example, in 1984 about 500 half-hour children's shows for networks and syndication were produced. In 1985 this had increased to 800 half-hour programs.[32] Altogether, there are perhaps 10,000 half-hours of children's programming available.[33] The head of a major production house predicts that due to depressed children's television ratings and lower revenue potential, a number of suppliers of children's programming who are in a marginal position now may close up shop.[34]

Advertisers seeking to reach the specialized children's market became concerned with the relatively high cost of network program vehicles, relative to the growing options. To help keep advertisers from abandoning them, the networks began to produce higher quality and higher priced children's programming. In 1983 the average cost of a network children's program was $80,000. By 1986 the average cost to produce a network children's program had shot up 275% to $220,000.[35]

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[32] Kenneth R. Hey, "We Are Experiencing Network Difficulties," American Demographics, October 1987, pp. 38 et seq.

[33] Robert Sobol, "Syndicators Going Full Speed Ahead in First-Run Kidvid," Television/Radio Age, August 3, 1987, p. 55.

[34] Sobel, p. 55.

[35] Ibid.

INTV Programming Survey

INTV recently conducted a survey of 80 independent television stations to determine operators' attitudes toward the children's programming marketplace.[36] Of these stations, 15% of their average total revenue is generated by children's programming. This is obviously an important component of their operations. Yet, due to declining audiences and therefore revenues, 39% of these stations indicate they are planning to reduce their amounts of children's programming in the future.

"Toy-Driven" Programs

Some critics of children's television argue that so-called "toy-driven" shows are not as desirable as other types of programming, preferring to label these programs as "program-length commercials."[37] The marketplace in fact shows some decline in the popularity of these programs. Industry observers point out that while there has been no overall advertiser slippage in supporting children's television programming, programs which feature toys are not doing as well, leading one major advertising agency to comment, "toy-driven shows are a thing of the past."[38]

Among other things, the risk in producing a television show on a toy which the fickle tastes of children may soon abandon, is very unattractive. For example, "He-Man" cost $10 million to produce. If kids do not like a show like this, they may not only stop viewing the show, but walk away from the toy, or vice-versa. While from a

[36] "Programming: Betting the Whole Bundle," INTV, Washington, D.C., 1987.

[37] See for example petitions filed with the Federal Communications Commission by Action for Children's Television on February 9, 1987 and October 5, 1987 on this topic.

[38] "Children Erosion Disputed by Hirsch, Sees Toy-Driven Market Programs as Over," Television/Radio Age, December 7, 1987, pp. 74,76.

marketing viewpoint, the possibilities of linking programming for children with the marketing of toys could be attractive, marketplace forces do not support this. Toy manufacturers, responding to the marketplace, are apparently discovering that toy-based programs are not necessarily wise investments.

Cross-Media Developments

While some might argue that what happens in one medium is irrelevant to the other media, this is not the case. First, with over half of all U.S. households having cable and home video available (and this proportion increases in households with children), obviously there are substantial non-broadcast viewing alternatives. However, the broadcast market is influenced by what is available from cable and home video.

Given the economics of the children's video marketplace, the risks of program development are great. There may be some incentives to undertake new program developments in one medium which can then be used in another medium to help offset development costs. For example, children's theatrical releases are also available on videocassette as well as cable and broadcast. In another example, "Double Dare," a children's game show once seen only on Nickelodeon, is entering syndication and new episodes will be seen on local broadcast stations around the country beginning in February 1988.[39]

Another example is relevant here. Broadcast stations and cable systems apparently have some economic incentives to cooperate in ensuring a supply of children's video programming to their markets. An independent television station in Fort Wayne, Indiana cites their children's programming as, "one of the key reasons

[39] Brian Donlon, "Networks Hooks Up With Cable TV," USA Today, January 22, 1988, p. 1-D.

WFFT is still on so many cable systems who wanted to drop as many independents as they could, as soon as the law allowed."[40]

Advertising in Children's Television

Children's programming on broadcast television is supported entirely by advertisers and broadcasters. Since there is no direct support mechanism from viewers, broadcasters must rely on advertisers as their sole means of generating revenues to off-set the costs of buying and producing programming for children. This is not true for broadcasters' two major competitors in the children's video marketplace, cable and home video. Even advertiser-supported basic cable networks also have a revenue stream from cable operators who pay a per-subscriber fee to these networks.

Broadcasters must therefore establish a delicate balance between the need to air commercials to generate revenue and the need to keep children attracted to their programming. While the amount of commercial matter was previously set under FCC guidelines, in 1984 the Commission abandoned these guidelines in its television deregulation proceeding. Therefore, since 1984 broadcasters have been free to let their local markets set the appropriate levels of advertising in children's programming.

According to a new NAB study, the equilibrium level (i.e. set by the market, not the FCC) of commercialization varies by market size.[41] In other words, the amount of commercials in children's programming on broadcast stations varies by the size of the market. Typically, larger markets exhibit higher levels of commercialization.

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[40] George Swisshelm, "TV Stations Use Kidvid to Power Local Identity," Television/Radio Age, August 3, 1987, p. 104.

[41] Edward E. Cohen, "NAB Children's Television Commercialization Survey," Research and Planning Department, National Association of Broadcasters, February 1988.

Market Forces Affecting Children's Television

Since the FCC deregulated broadcast television there have been no governmental guidelines regarding children's television commercials. However, the industry has developed some self-regulatory structures.[42] These structures have evolved in response to marketplace concerns. For example, in one study, 91% of television stations in a sample under study reported that they have developed their own time standards for advertising on their stations.[43]

In addition to the local television stations, another industry group, the National Advertising Division of the Council of Better Business Bureaus, maintains a "Children's Advertising Review Unit" (CARU) which scrutinizes children's advertising. CARU focuses its efforts on the perception of a product and its benefits. CARU relies upon a panel of national advisors, including academics who have done research on child comprehension and advertising.

Many of the complaints handled by the National Advertising Division (NAD) deal with child-directed advertising and cosmetics (12.7% of the cases handled by NAD in the first nine months of 1987 dealt with child-directed advertising).[44] Apparently, most of the complaints are initiated by competitors. In any case, the ad agencies purport to be pleased that they have CARU's guidance during their creative development of children's advertising messages.

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[42] See: U.S. v. NAB, 8 Media L. Rep. 2572 (Dist. Ct., Washington), 1982, in which the former "NAB Code" specifying voluntary commercial time limits was abandoned in a consent decree action.

[43] Bruce A. Linton, "Self-Regulation in Broadcasting Revisited," Journalism Quarterly, Summer-Autumn 1987, vol. 64, nos. 2 & 3, pp. 483-490.

[44] Edmond M. Rosenthal, "Financial Service, Health Claim Ads Go Under Scrutiny," Television/Radio Age, October 26, 1987, p. 38.

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The NAD/CARU has some muscle in the industry. For example, when Flintstones Vitamins were advertised during "The Flintstones" program on a television station, NAD contacted the vitamin manufacturer to report two violations of its self-regulatory guidelines: (1) medications, drugs and supplemental vitamins should not be advertised to children; and (2) animated characters should not promote products because they can alter a child's perceptions. The manufacturer cited an oversight in communications was responsible for the incident and that corrective action had been taken.[45]

In addition to station and advertiser self-regulations, the major networks each have their own standards and practices units which set policies for network programming.

The Marketplace Continues to Decide

In his book, Children's Television: The Art, The Business and How it Works,[46] Cy Schneider, a 33-year veteran in children's television, notes that today's television programmers create over 900 different half hours of entertainment for children each year and advertisers spend $500 million annually to promote products to kids. Based upon his extensive career in children's programming and advertising designed for children, he argues that critics of children's television have been able to accomplish significant improvements in the marketplace, "without burdening broadcasters with useless government rules and stifling restrictions on business practices."[47]

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[45] "NAD Cuts Flintstones Spot," Advertising Age, December 23, 1987.

[46] Cy Schneider, Children's Television: The Art, The Business and How it Works, Lincolnwood, IL: NTC Business Books, 1987).

[47] Schneider, p. 179.

As examples, he cites the following changes in children's television:[48]

o violence in children's television has been curbed

o there is a heightened sensitivity to stereotyping

o there is less advertising clutter

o there is more enlightening programming for children than ever before

"KidsNet" Provides Marketplace Information

As an example of another marketplace structure which has evolved to serve the special needs of children, "KidsNet," a non-profit (i.e. 501(c)(3)) organization has been established to assist anyone interested in learning more about children's programming. The charter members of "KidsNet" include the Arts & Entertainment Network, Capital Cities/ABC, Inc., CBN Network, CBS, Home Box Office, NAB, NBC, Nickelodeon, Showtime, The Disney Channel, Lorimar Telepictures and USA Network.

"KidsNet" defines its benefits as:[49]

> By placing all of children's radio and television programming information (commercial, public, cable, home and school) into a computerized database, programmers and distributors will have a built-in promotional vehicle that at the same time will provide needed information about the audience. The interactive ability of KidsNet will allow advertisers, advertising agencies, programmers and others to research the use of their programs, educational materials, advertisements, public service announcements, etc., as well as the needs of their audiences: children, parents and educators.

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[48] Schneider, p. 179.

[49] "KidsNet: A Computerized Clearinghouse for Children's Radio and Television," KidsNet, 1201 16th Street, N.W., Suite 607E, Washington, D.C. 20036.

Kids Are Not A Captive Market

As indicated by viewing data and other marketplace data, children are by no means a captive market. There are so many video options at the disposal of children and their parents, that special marketplace mechanisms have evolved to respond with a supply of video programming in different forms (i.e. program types) and through different channels (i.e. broadcast, cable and home video) to meet the demand. Children's program producers and distributors (e.g. broadcast, cable, home video) are responsive to the special needs of the child audience. They have to be, in order that they remain competitive in an important marketplace.

V. CONCLUSION

The video marketplace in children's television is prolific and dynamic. The viewing environment is such that the great preponderance of children have a large number of broadcast, cable and home video viewing options. Some of these options are advertiser-supported, some are subscriber-supported. The typical child (and his or her parent) has a virtual wealth of video options from which to make viewing choices.

The children's video marketplace consists of three major parts, the broadcast, cable and home video segments. Each of these segments interacts and affects the other, both in terms of programming and economically. These segments are substitutable and thus competitive. From a public policy perspective, this is a fundamental observation. In order to preserve this competitiveness among the three major segments of the children's video marketplace, policymakers should bear in mind that these segments do not operate in isolation.

THE CHILDREN'S VIDEO MARKETPLACE/

Of the three major segments in the children's video marketplace, only broadcasting is completely supported by advertising. The cable and home video segments have other support mechanisms available to them. This permits home video and cable some diversity in maintaining revenue streams which then permits greater staying power in the marketplace.

Therefore, any public policy interest in commercialization levels in broadcast children's programming should recognize at least three key factors: (a) broadcast children's programming has only one revenue stream -- advertising; (b) the children's video marketplace is competitive and expensive to participate in; (c) cable and home video are strong competitors to broadcast television stations as sources of children's video programming.

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Mr. BRYANT. Mr. Chase.

STATEMENT OF ROBERT CHASE

Mr. CHASE. Mr. Chairman and members of the committee, I am Robert Chase, a social studies teacher at Rogers Park Junior High School in Danbury, Connecticut, and a member of the executive committee of the 1.9 million member National Education Association.

I do appreciate the opportunity to share some thoughts with you this afternoon about the standards for programming children's television.

For many years, NEA has worked to ensure that television programming for children includes a diverse array of programs that contribute to, rather than detract from, the learning that takes place in America's public schools. And yet, with few exceptions, the television industry's commitment to quality programming for young children has been woefully inadequate. Cloaked behind rhetoric touting free speech and free market principles, principles which we support, but abhor seeing abused, all too many television broadcasters, affiliates, independents and producers have put the almighty dollar over and above all other considerations. The victims of this disregard have been those with limited rights of speech and little or no economic power—America's children.

Over the past three decades, the lac enforcement of the few standards deteriorated, culminating in the broad deregulation of television by the FCC in 1984. Repeated studies have demonstrated that young children are less able to resist the allure of commercials than adults.

Since those studies have in no way been refuted, the FCC's decision to abandon limits on commercials is cynical at best.

In addition, there has been an alarming proliferation of the so-called 30-minute commercials, where the entertainment value is secondary to marketing considerations and the educational value is almost entirely absent.

In the absence of limitations on the amount of time that may be devoted to commercials, television producers have joined forces with toy manufacturers to make the children's prime viewing hours one single, uninterrupted sales pitch.

The proposed legislation, the Children's Television Practices Act of 1988, is necessary to reinstitute standards for the public interest obligations of broadcasters.

NEA has for many years recommended that the Federal Government require at least 10 hours a week, with at least 1 hour a day of educational and informational television for children under 12 years of age. NEA believes parents must play an active role in limiting the amount of television their children watch, reviewing programs and helping their children select shows that are appropriate for their ages.

But parental involvement does not absolve the industry from its responsibility to devote a portion of air time to programs that give parents and young children options from which to choose. Of the approximately 30 hours a week of network television programming

for children, only about 1 hour of educational and informational programming for children is aired each week.

The television industry argues that the diversity of television opportunities today is greater than ever before. But generally, the children of low income families who cannot afford these alternatives watch more television than any other group.

You have heard ample testimony today and previously from the medical community, the psychological community, media analysts, and children's advocates who bring hard evidence that children are less equipped to recognize or resist oversaturation of commercials, that in the absence of FCC regulations or enforcement, the ratio of commercials to program content has increased, the number of program-length commercials has increased, and that the state of television programming practices for children has gotten worse, not better.

At the same time, Congress has heard from representatives of network broadcasters, independent television stations and toy manufacturers claiming that whatever or whenever there are abuses, market forces will straighten them out.

NEA sees no evidence supporting this claim.

Last week, legislation was introduced that would encourage the television industry to establish voluntary guidelines covering the abusive practices we have discussed. Congress and the FCC have attempted many times to allow broadcasters to police their own ranks.

The result has been the situation we have today: few quality educational and informational viewing opportunities for children, advertising saturation during children's viewing hours, and the proliferation of program-length commercials.

The time has come to act. We encourage you and strongly urge this committee to approve H.R. 3966. Without congressional action, we can only hope for business as usual.

Thank you very much.

[The prepared statement of Mr. Chase follows]

TESTIMONY

OF THE

NATIONAL EDUCATION ASSOCIATION

Mr. Chairman and Members of the Subommittee:

I am Robert Chase, a social studies teacher at Rogers Park Junior High School in Danbury, Connecticut, and a member of the Executive Committee of the National Education Association. The NEA represents nearly 1.9 million education employees throughout the nation in elementary, secondary, vocational, and postsecondary schools. I appreciate the opportunity to talk with you about standards for programming children's television.

NEA has a longstanding interest in the relationship between television and education. We have, for many years, reviewed and recommended television programs for children in an effort to encourage the development of quality television programming for young people that is both entertaining and instructive. Each year we provide information on how families can make the most out of television viewing, including our brochure entitled, "Family Viewing: An NEA Guide To Watching TV With Your Children." And in July 1988, NEA will present the seventh annual NEA Broadcast Awards to acknowledge and promote quality children's programming. Moreover, in recent years, NEA has been active — working with both Congress and the Federal Communications Commission — in an effort to ensure that television programming for children includes a diverse array of programs that contribute to, rather than detract from, the learning that takes place in America's public schools.

From its creation, television has held out the promise of a positive force in the learning process. Unfortunately, to date, that promise is largely unfulfilled. Except for accomplishments

of the Public Broadcasting System — which was specifically created to promote learning for children, youth, and adults — and some subscription cable channels, the record of the television industry's commitment to quality programming for young children is, with a few exceptions, woefully inadequate. Cloaked behind rhetoric touting free speech and free market principles, all too many television broadcasters, affiliates, independents, and producers have put the almighty dollar over all other considerations. The victims of this disregard have been those with limited rights of speech and little or no economic power, those who have few advocates for their interests: America's children.

Concern about television and the public interest is nothing new. The FCC established standards for broadcasters as early as 1946, and by 1960 the FCC included, as part of its standards for meeting the public interest obligation of broadcasters, a requirement for programming designed for children. But over the past three decades, the lax enforcement of the few standards deteriorated, culminating in the broad deregulation of television by the FCC in 1984. Since that time, the broadcast industry — far from demonstrating a good faith effort to address the need for quality children's programming — has used deregulation as carte blanche to stop production of existing children's programs once held up as signs of good faith.

There is no evidence that market forces alone are sufficient to promote an adequate supply of quality viewing opportunities for young children. Rather, in the absence of FCC standards

there has been an alarming proliferation of exploitative programming — the so-called "30-minute commercials" — where the entertainment value is secondary to marketing considerations and the educational value is entirely absent. Clearly we are headed in the wrong direction.

NEA believes that the proposed legislation, H.R. 3966, the Children's Television Practices Act of 1988, is necessary to reinstitute standards for the public interest obligations of those who maintain exclusive access to a public trust — the airwaves. Limitations on the amount of time that may be devoted to commercials are necessary since, in absence of those guidelines, television producers have joined forces with toy manufacturers to make the children's prime viewing hours one single, uninterupted sales pitch. And the requirements for broadcasting a substantial amount of programming which serves the education and information needs of children between the ages of 2 and 12 appears to be the only way to force the television industry to fulfill the promise television held out when it first became a true mass medium. NEA has for many years recommended that the federal government require at least 10 hours a week, with at least one hour a day, of educational and informational television for children under 12 years of age. It seems to us that this one hour a day is the rock-bottom amount of time that should be devoted to children's programs. Yet, even this seems too much of an imposition to broadcasters.

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Relationship of Television and Education

Television is unquestionably a primary source of information about the world for all viewers, including children. And certainly television's influence has not been unrelentingly bad. Researchers have demonstrated that some television viewing by young children can help expand their vocabulary. But researchers also point to a correlation between older children who watch a great deal of television and low reading ability. Parents must play an active role in limiting the amount of television their children watch, reviewing programs, and helping their children select shows that are appropriate for their ages. But parental involvement does not absolve the industry from the responsibility to devote a portion of air time to programs that give parents and young children options from which to choose. Until recent years, federal agencies, the courts, and society as a whole shared a consensus that using television for the public interest — news, local programming, and children's programming — was a reasonable expectation for granting exclusive rights to the airwaves. In fact, the networks quickly made a virtue of necessity by devoting considerable resources to the development of news programs. If the same commitment had been made to children's programming, it stands to reason that the quality and profitability of children's programming would be comparable to that of the network news programs.

The television industry argues that the diversity of television opportunities today is much greater than ever before. Unfortunately, programs on cable and videotape are available only

to families that can afford them. But of young people 2 to 11 years old, it is the children of families that are least able to afford these options who watch an average of 33 hours per week, compared to about 19 hours for children of upper-income families and 22 hours for children of middle-income families.

At present, the choices available to most children are programs broadcast between 7 and 9 a.m. and 3 and 6 p.m. Monday through Friday and 7 a.m. to noon on Saturday. A 1983 Congressional study concluded that of those 30 hours a week of television programmed for children, only about one hour of educational and informational programming for children is aired each week. Many of the quality network programs for children are aired only on an occasional basis. Much of the programming during this period is made up of reruns of adult situation comedies. And of the programs that are geared specifically for children, far too many are developed by, or in concert with, toy manufacturers.

Recommendations

It has been said that Congress cannot legislate quality television. Nevertheless NEA believes it is reasonable to challenge the government's continuing sanction of an alliance between television producers and toy manufacturers when its major purpose is to develop a market for a product. Moreover, repeated studies have demonstrated that young children are less able to resist the allure of commercials than adults, a fact that resulted in the current FCC prohibition against sponsor-selling

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and the requirement for "bumpers" dividing program and commercial. Since those studies have in no way been refuted, the FCC's decision to abandon limits on commercials is cynical at best. Congress, however, can rectify that situation by restoring standards and sanity to broadcast practice.

This Subcommittee and others in Congress with an interest in this issue have heard testimony over the past few years from psychiatrists, psychologists, media analysts, educators, children's activists, and others who bring hard evidence that — in the absence of FCC regulation or enforcement — the ratio of commercials to program content has increased, children are less equipped to recognize or resist oversaturation of commercials, the number of "program-length" commercials has increased, and that — in short — the state of television programming and practices for children has gotten worse, not better.

At the same time, Congress has heard from representatives of network broadcasters, independent television stations, and toy manufacturers, all arguing that these practices are benign and that whenever there are abuses, market forces will straighten them out. NEA sees no evidence supporting these claims.

Last week, H.R. 4125, was introduced. It would encourage the television industry itself to establish voluntary guidelines covering the abusive practices we have discussed. While we are pleased that this bill recognizes the need for Congressional action to stimulate quality programming for children, we believe its call for voluntary guidelines is insufficient. Congress and the FCC have attempted many times to allow broadcasters to

"police their own." The result has been the situation we have today — few quality educational and informational viewing opportunities for children, advertising saturation during children's viewing hours, and the proliferation of "program-length commericals."

The time has come to act. We strongly urge this Subcommittee to approve H.R. 3966. In particular, we support the restoration of guidelines to limit the number of minutes per hour that can be devoted to advertising during children's prime viewing hours. We also strongly support the provision to establish guidelines to ensure that at least some educational and informational programming is available for children.

Without Congressional action, we can only hope for business as usual. Let this be the year Congress acts on the recommendations of physicians, the psychological community, professional educators, and other children's advocates.

Thank you.

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Mr. BRYANT. Thank you, Mr. Chase, for being here.

Let me start my questioning with Mr. Jorgenson, if I may.

Mr. JORGENSON. Yes.

Mr. BRYANT. Fir ', I'd like to ask if you or your association has information that could tell us how much regularly scheduled programming broadcasters currently air specifically for the child audience in America today.

Mr. JORGENSON. Boy—let me turn to my associate.

I'm not aware of any. No, sir.

Mr. BRYANT. This may appear to be the same question, but I also wanted to ask if you could tell us how much of your programming is educational and information for children.

Mr. JORGENSON. I do not have that. Now, those are difficult to define, what constitutes informational, what constitutes educational, what constitutes entertainment.

Some of them are all blended together. It's difficult to define terms.

Mr. BRYANT. Well, my question is within the bounds of your definition, do you have any information about that?

Mr. JORGENSON. I do not.

Mr. BRYANT. Now, that leads me to ask this question. We've been through this discussion many times in the last 4 or 5 years, either you and I, or me and other representatives of the association.

If that's the case, how can the NAB come forward and argue that everything is all right, as it is today, if, really, the NAB has never done a study to see just exactly what the status quo is?

Mr. JORGENSON. We've done many surveys of the industry and the amount of programming done, the type of programming done. The book that we have attached to my written testimony is a sample of it.

We have surveyed the amount of commercial time and commercial stations across the country. We have that data as a part of my written testimony.

We do not see that there has been a demonstrated arm.

Mr. BRYANT. Am I fairly characterizing your view when I say that you believe that—I'll give you a moment to read that, if you want.

But when I said that apparently you view the situation today as being adequate, no particular changes are needed and the amount of educational programming is sufficient, is that a fair characterization of your position?

Mr. JORGENSON. I think we need to leave that up to the individual broadcaster to decide in his own market. Given the alternatives that are available in that market, the number of cable channels available, VCR sales, the penetration of VCR's in that market, how many options do the children have to get different types of children's programming?

Mr. BRYANT. Well, that's my question.

Mr. JORGENSON. How many independent stations are in the market. If you've got just three network affiliate Vs, that's one situation. If you've got three independent Us in the market that would probably program a lot more children's programming, then that's something else again.

Mr. BRYANT. Then your answer is or is not—correct me if I'm wrong. I don't want to put words in your mouth.

Mr. JORGENSON. Yes.

Mr. BRYANT. That maybe in some markets, it's adequate and in some markets it's not adequate.

Mr. JORGENSON. Possibly. The average commercial broadcast station ran 11 hours and 40 minutes of children's television programming per week. That's the latest information we have from the NAB.

Mr. BRYANT. And did that come from the studies by the NAB?

Mr. JORGENSON. That's a survey done by the NAB.

Mr. BRYANT. Could the NAB provide us, then, with a listing of the programs, when they're aired and which age groups they're designed for?

Mr. JORGENSON. Rick, the service to children, how specific does it get in terms of day, time?

[Pause.]

It does not.

Mr. BRYANT. Well, what information could we get, then? If we want to be able to judge what kind of a program it is, what kind of a time period you air it in and what age group it's designed for and, of course, whether or not it is educational information.

Mr. JORGENSON. Yes.

Mr. BRYANT. Can we get access to that study and would it include that kind of details?

Mr. JORGENSON. The data we have is programs they are carrying designed for children. It does not break it out in terms of educational or informational, and it does not give the specific time at which those programs were broadcast.

Mr. BRYANT. OK. So that answer is basically, any kind of programming that is aimed at a children's audience.

Mr. JORGENSON. Yes.

Mr. BRYANT. Whether it's educational or not.

Mr. JORGENSON. And you can see by the description in the book the nature of the program by the brief description of what it's about.

Mr. BRYANT. Now, you are the chairman of the board of the NAB.

Mr. JORGENSON. Yes.

Mr. BRYANT. But that's——

Mr. JORGENSON. We also own and operate two television stations, yes.

Mr. BRYANT. Yes. In your real-life job as a businessman operating a television station, are there Monday through Friday educational and informational children's programs on the regular schedule?

Mr. JORGENSON. Not on a weekly basis, no. But we do have educational programming for children at various days and various times, but not on a regular weekly schedule, no.

We are participating in a national program called, "For Kids' Sake." And to give you one example, this past summer, we participated in the second year of a program under the umbrella of "For Kids' Sake," and tied in with the public school system and the public library in our communities and put on a summer reading

program. 47,000 children were involved in that program and the number of children's books checked out of the library this summer was up by 23 percent.

That's just a for-instance.

Mr. BRYANT. I assume that you would agree that, generally speaking, children's programming is less profitable than the rest of the programming that you put on the air as an earner.

Mr. JORGENSON. Well, prime-time, I guess, would be considered the most profitable, yes. Children's programming does not run in prime-time, generally; that is, programming directed specifically to children.

Mr. BRYANT. If, then, you believe that some improvements were necessary—you don't agree to that, necessarily—but, if someone agreed to that, but then argued that the way to make improvements is through the market place, it seems to me that under those circumstances, it would be very hard to hold up one's end of the argument that the market place can solve the problems inasmuch as children's television is not the most lucrative and inasmuch as a person in your position has a fiduciary obligation to maximize profits for the stockholders, as every business person does.

Mr. JORGENSON. Yes. But we do a lot of things that are not necessarily just for the benefit of the stockholders. We present a lot of public service programs as well, public service announcements, several million dollars a year worth of those that don't produce any bottom-line results for us.

That is part of our community service.

Mr. BRYANT. I think it would be valuable in connection with our earlier exchange about children's programming to refer to a study by John Claster, who testified earlier.

Mr. JORGENSON. Yes.

Mr. BRYANT. That demonstrated that television stations in the top 50 markets in 1978 broadcast very little children's programming. Fifteen percent of the stations broadcast no instructional programming of any kind. Thirty percent broadcast no instructional programming for preschoolers. Fourteen percent broadcast only a ½-hour per week, only a ½-hour per week of regularly scheduled instructional programming for children. Fifty-two percent did no instructional programming for children during the weekdays. And excluding CBS affiliates which had Captain Kangaroo in those days, 86 percent of all other network stations did no instructional programming for children during the weekdays.

Do you think the record today is better than that?

Mr. JORGENSON. I could not say, sir. I do not know.

Let me say this. In Australia, 10 years ago, the Australian Broadcast Tribunal mandated that all Australian commercial television broadcasters be required to broadcast programming for education and information to children between the hours of 4 to 5 p.m., Monday through Friday.

Ten years later, the audience on the Australian television stations Monday through Friday, 4 to 5 p.m. is down by 55 percent.

You can put it on the air, but the children won't watch it.

Mr. BRYANT. Well, it seems to me that the experience of Nickelodeon would directly contradict that assertion, which we've heard before in past years.

Do you agree? They've been profitable.

Mr. JORGENSON. I would compare our ratings with Nickelodeon any day.

Mr. BRYANT. Well, but would you compare what happened in Australia with Nickelodeon? That's what we're comparing.

You gave an example of how children's programming won't be watched.

Mr. JORGENSON. Yes.

Mr. BRYANT. You have sitting next to you a representative of a company whose experience seems to indicate otherwise.

Can you distinguish the situation or is it the same?

Ms. LAYBOURNE. Mr. Chairman, can I say——

Mr. BRYANT. Let me come to you in 1 second.

Mr. JORGENSON. I think Nickelodeon itself admits that it does not desire any restrictions placed on programming.

Mr. BRYANT. But the question was about watching children's programming—will they watch it.

It seems to me we have one witness, and we'll turn to her in just a moment, whose company indicates that they will watch it.

Mr. JORGENSON. I look at public television and the ratings on Sesame Street and Misterogers as compared to commercial television ratings for children's programming opposite and they don't compare.

We, within the entertainment format of our local shows, as we do educational and informational elements in it, but provide some entertainment along with it, I think many children, very frankly, found Captain Kangaroo deadly boring.

Mr. BRYANT. OK. Well, let me go to Ms. Laybourne.

Ms. LAYBOURNE. Thank you very much. You can tell that I am bursting forth with several points that I'd like to make.

Number one, we are the top-rated cable service, so I am never embarrassed about our ratings. But it's very difficult to compare ratings on cable and ratings in broadcast, except we just put our show Double Dare into syndication with the Fox stations and in 2 weeks on the air, this very innovative, very good-for-kids show is the top-rated show in the 6-to 11-year-old group.

So I submit that Mr. Jorgenson's comments that the declining audiences in broadcast television have really—may have something to do with Nickelodeon in the fact that we have actually introduced kids to other kinds of programming and that they now are saying, enough of all of this same old stuff. We want things that are fresh.

Believe me, when we first launched Nickelodeon, kids didn't know what we were going to be and why they needed a network just for them. And they resisted us at arm's length. They were creatures of habit. They said, we have animation. That's all we need.

Well, the broadcast industry did a big favor for us with figuring out about the program-length commercial and the me-too-ism of running in with He Man after He Man, Masters of the Universe, producing animation at break-neck speed, unable to produce shows of any significant quality, overloaded the market place with commercials.

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Kids, seeing this same, repetitive kind of programming over and over again, have turned to—they want something different. They're clearly telling us that. The ratings—we have ratings proof that Double Dare is succeeding in the market place.

And I would also submit that from what Mr. Jorgenson is saying, although I am similar to Mr. Jorgenson in that I do not believe that legislating a specific number of educational hours is the way to go, it doesn't sound to me that the NAB has taken a very proactive role in making sure that its members feel good about the kind of thing that they're doing for kids.

I submit that they have not asked the question, what can television do for kids. And the very fact that he does not have specifics on what is happening in the market place is of great concern.

And I don't believe we would be here today if the NAB had been more effective with the stations across the country.

Mr. JORGENSON. I submit once more, Mr. Chairman, the book that I enclosed with my written statement giving illustrations of what television stations across the country are doing in children's programming, that we are responding. I say one more time that we are serving the children.

I don't agree at all that we're not—we offer awards, as I mentioned in my oral testimony, for top-notch children's programming. We're trying to encourage it, absolutely. We recognize our responsibility.

I agree with that.

Mr. BRYANT. But just a moment ago I asked you if you had regularly scheduled children's programming on your television stations, the ones that you operate.

Mr. Jorgenson. Yes.

Mr. BRYANT. And you said you do not.

Mr. JORGENSON. Not on a weekly basis, no, sir.

Mr. BRYANT. But surely that alone should to some extent sustain my argument that we need a requirement so that you do.

What would it take so that you will put it on there on a regular basis?

Mr. JORGENSON. We make a judgment based on the quality of the program and, as I say, we weave in educational and informational elements into our local shows.

We have one locally produced show that's been running now continuously since the early 1950's, which is the oldest running, local, live television show for children in America, I believe, hosted by a cowboy who brings in all different kinds of people and does a whole variety of things for kids, some of them educational and informational.

That's on a weekly basis, but I don't know that he will do it every week.

Mr. BRYANT. Is it on a weekly basis or it is not?

Mr. JORGENSON. I beg your pardon?

Mr. BRYANT. I didn't understand what you said. Is it on a weekly basis?

Mr. JORGENSON. It is scheduled on a weekly basis, but he may not have educational and informational elements in it each week.

Mr. BRYANT. I see. All right.

Mr. JORGENSON. My associates tell me, they've looked up, in 1979, the latest figures we had before the FCC terminated the rulemaking, there were 4.48 weekly hours of educational and informational programming on all commercial television stations——

Mr. BRYANT. Would you repeat that? I turned my attention for a moment.

Mr. JORGENSON. 4.48 hours per week of educational and informational programming on all commercial stations. When you include public television stations in the total, it's up to 8 hours and 6 minutes per week.

Mr. BRYANT. That's in what?

Mr. JORGENSON. Educational and informational programming per week.

Mr. BRYANT. And that was in what year?

Mr. JORGENSON. 1979.

Mr. BRYANT. OK. That's 9 years ago. I'm not sure how that helps us too much. I guess it would tell us where we stand vis-a-vis 1978, which are the figures I read to you a moment ago.

Mr. JORGENSON. Yes.

Mr. BRYANT. But this is 1988.

Mr. JORGENSON. I know. We don't have them. The FCC quit collecting that data.

Mr. BRYANT. Another one of our complaints here on this committee.

Mr. Chase, I read a moment ago a definition of instructional programming to Mr. Claster who, in 1979, proposed it in a filing with the FCC. I hate to read the whole thing to you again, but you may not remember it: "Programs designed in association or cooperation with educational institutions, libraries, museums or similar organizations, to enhance the understanding or further an appreciation of literature, music, fine arts, history, geography and the natural, behavioral or social sciences."

Does that appear to you to be an adequate definition of instructional television? Would you change it or add to it or in general comment upon it?

Mr. CHASE. Just listening to it now, Congressman, it does appear to be an adequate explanation or definition, yes.

Mr. BRYANT. The discussion of how you define it has been a central criticism of the proposal.

Mr. CHASE. I'm sure that's true and in light of that, some of the comments that have been made both by the previous panel and also by members of this panel have caused me a little bit of concern.

When talking about the number of shows that are in fact considered to be children's TV shows, and in listening to some of the previous testimony, some of those shows have been evening shows, situation comedies that have been repeated in the afternoon during what has traditionally been viewed as children's TV hours. And yet, a few moments ago, Mr. Jorgenson stated that programs directed specifically for children do not run in prime time. And yet, it seems to me that some of those very prime-time shows, when they are being rerun in the afternoon hours, are being considered as children's shows that provide educational and informational activities.

I think there's somewhat of a paradox and contradictory element in that.

Mr. JORGENSON. Mr. Sheehan, in the earlier panel, reported that there was a lot of children's viewing in prime time. And there's a lot of programming in prime time that is directed to the family—Alf, the Cosby Show——

Mr. BRYANT. I love Alf and the Cosby Show. Everybody does. But I don't think that's children's programming.

I would readily say that it is good programming.

Mr. JORGENSON. Yes.

Mr. BRYANT. I think it's fine programming.

Mr. JORGENSON. Wholesome family kind of entertainment.

Mr. BRYANT. It is, and hooray for it. I really wish that we could have more and more of it. It's wonderful. But it does not fall into the category we're discussing here, I don't think.

I think it's good for kids to watch adults sometimes, too. I mean, everybody agrees with that. But we're talking about stuff that's specifically aimed at kids, I believe.

Mr. JORGENSON. Yes.

Mr. BRYANT. Let me ask you this, Mr. Jorgenson. It's a matter of distress to me that, and we've been debating this for many years the NAB doesn't have this data. We don't have it and the FCC has quit collecting data.

I wonder if the NAB could provide the subcommittee with information about the television industry's current record concerning educational and informational programming for children.

Perhaps you could just replicate the Claster survey that I referred to done in 1978, update it 10 years later, and then we can compare apples to apples.

Mr. JORGENSON. Dr. Ducey will try to do that.

Mr. BRYANT. OK.

Mr. JORGENSON. All right.

Mr. BRYANT. Ms. Laybourne, you seem to leaning forward there.

Ms. LAYBOURNE. I'm sorry. I can't help myself.

Mr. BRYANT. That's OK.

Ms. LAYBOURNE. On the issue of educational programming, there's one piece of irony, I think, that's worth mentioning. And that is that it really is possible to do educational programming for kids who have not yet gone to school. Kids who have not yet gone to school do watch educational programming.

It's very difficult to get kids who have gone to school to watch educational programming. That's been a major dilemma for Nickelodeon. Once they've learned what education is all about, they have trouble coming home after they've spent a day in school watching more educational programming.

And I really submit that what this committee should be looking at is what is good television for kids and how can we make kids feel better about being kids. How can we make sure that their voice is heard and not focus so much on improving their college board scores.

I don't think that that's what they really need in this day and age. I think they live in a very pressured society and they need help dealing with the day-to-day problems that they come up with.

Kids are terrified of being humiliated. By using comedy to show situations where kids are commonly humiliated, that's a bigger gift to kids than improving their college board scores.

Mr. BRYANT. In your testimony, you wrote that what's good for kids is good for business. I wonder if you would agree with the assertion of some that the attitude of commercial broadcasters has been somewhat the opposite, that what's good for business is good for kids, or at least that's all that kids are going to get.

Particularly the proliferation of program-length commercials seems to make it clear that producers of many children's television programs are focusing primarily on programs that will sell products in a toy store instead of educating or informing children.

Ms. LAYBOURNE. I think that the program-length commercial was a very attractive solution to creating original programming for kids, that it was short-lived.

I do not believe that you're going to see very many toy companies getting involved in the multi-million dollar projects that have not related in success.

If I could just take a minute to describe what I see as having happened. In 1983, He Man, Masters of the Universe came on the scene. They had money from Mattel behind it. It got good station clearances because it had that money behind it. And everybody saw this as the latest way to make money in the market place.

So everyone rushed in and as quickly as possible created animation to go along with their toy lines.

If you know anything about the creative process, you cannot speed animation up to the degree that this phenomenon created. I am personally concerned about the phenomenon that Nickelodeon is creating in the market place right now with Double Dare. Double Dare has been the biggest hit in the syndication market place since Ducktails premiered.

I am concerned that we saw at the NATPE conference many, many copycat shows of Double Dare. We spent 2 years researching and developing and fine-tuning Double Dare to make sure that it was a show appealing and right for kids.

I am concerned that the me-too-ism and oh, this looks like another good way to make money in the market place, will shorten the process, which I do not believe can be shortened effectively.

Mr. BRYANT. Very well. I want to thank all of you for being here and for your patience in putting up with the uncertain schedule of Congress.

I'm sure that we'll get a chance to visit in the future. Thank you very much for being here.

I am going to announce that we will hold the record open so that members can submit written questions.

[Whereupon, at 4:40 p.m., the subcommittee adjourned.]

[The following material was submitted for the record:]

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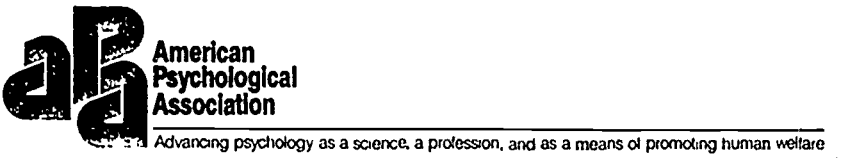

March 18, 1988

Honorable Edward Markey
Chairman, Subcommittee on Telecommunications
and Finance
U.S. House of Representatives
House Annex II
Room 316
Washington, D.C. 20515

RE: H.R. 3699, The Children's Television Practices Act

Dear Mr. Markey:

In 1986, the American Psychological Association (APA) formed a Task Force on Television and Society. Among other items, the charge to the Task Force included: "Review and integrate existing research on positive and negative effects of television advertising and programming on particular segments of the U.S. population, specifically women, children, minorities, and the elderly."

It is in relationship to our concern with the effects of television on children that we are writing this letter. Specifically, we are writing to encourage passage of H.R. 3699, the Children's Television Practices Act.

Researchers and educators have repeatedly called for the development of educational and informational programming on commercial television. It is now abundantly clear that market forces have not resulted in the production of needed educational television programming directed toward children. In contrast to other industrialized nations (such as England, Austria, Australia, France, Italy, Japan, West Germany, and Switzerland), the U.S. is far behind in terms of the provision of educational television programming for children. Perhaps it is no coincidence that American school children are also lagging behind the children of many nations in terms of academic achievement levels. Clearly, television writers and producers need additional incentives to produce this genre of television and H.R. 3699 provides some of that incentive.

In addition, we are of the unanimous opinion that television offers tremendous potential for the positive socialization of American children. In addition to stimulating a more positive attitude toward schooling and the educational process, television can enhance social, emotional, and intellectual development. Studies clearly indicate that television can have many positive functions beyond mere entertainment.

1200 Seventeenth Street, N.W.
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APA Task Force
March 18, 1988
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With regard to H.R. 3699's provisions on television advertising, we concur that a need exists for additional regulatory oversight of television advertising directed toward children. As you know, the only regulatory mechanism in place at this time specifically concerned with this responsibility is a self-regulatory office, the Children's Advertising Review Unit, within the Council of Better Business Bureaus. This is hardly adequate to the needs of this area.

Years of research have shown that children are especially vulnerable to commercial messages and other efforts of persuasion. This is because children, especially young children, do not have the cognitive skills to: (1) distinguish program content from commercial content; (2) understand the persuasive intent of advertisers; or (3) to understand possible "disclaimers" included on television commercials.

In addition to the points enumerated above, we are concerned about: the influence of television advertising on the development of materialism and consumer attitudes on young children; the problems engendered by the development of a desire for expensive toys by low socioeconomic status children; and the potential family conflicts that may arise as a result of the consumer attitudes encouraged by television commercials. Finally, emerging technologies and programming pose additional concerns about "program length commercials" and programming that requires the purchase of expensive toys in order to be fully appreciated or enjoyed (such as "interactive television").

In sum, the APA Task Force on Television and Society strongly encourages the passage of H.R. 3699. The development of educational television programming for children can have inestimable positive benefits for American children. The regulation of television advertising directed to children will ensure that children will not be confronted with messages that take unfair advantage of their incomplete understanding of the persuasive intent of commercials, or that will produce unhealthy attitudes and/or family relationships.

If we can be of any assistance in your efforts to pass this legislation, please do not hesitate to call on Brian Wilcox of APA's staff at 955-7673.

Sincerely yours,

Edward Donnerstein, Ph.D.

John Murray, Ph.D.

Halford Fairchild, Ph.D.

Eli Rubenstein, Ph.D.

Aletha Huston, Ph.D.

Diana Zuckerman, Ph.D.

Phyllis Katz, Ph.D.

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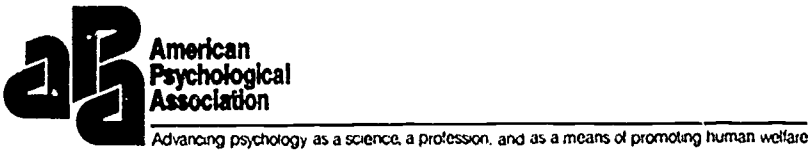

STATEMENT OF

Bruce Watkins, Ph.D.

University of Michigan

Ann Arbor, Michigan

on behalf of

The American Psychological Association

presented to

U.S. HOUSE OF REPRESENTATIVES

Subcommittee on Telecommunications and Finance

Committee on Energy and Commerce

on the subject of

H.R. 3966, THE CHILDREN'S TELEVISION PRACTICES ACT OF 1988

March 17, 1988

The Honorable Edward Markey, Chair

1200 Seventeenth Street, NW
Washington, DC 20036
(202) 955-7600

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Chairman Markey and members of the Subcommittee on Telecommunications and Finance, I am pleased to provide this statement regarding children's television programming on behalf of the American Psychological Association. My name is Dr. Bruce Watkins. I am a communications researcher at the University of Michigan, where I have conducted research summarized in this paper which is directly relevant to these proceedings. I also served as a Congressional Science Fellow on the staff of the Subcommittee from September of 1974 to August of 1975, so I have an appreciation for the policy issues facing members of the Subcommittee.

This paper will review briefly what is known about children's viewing patterns, the effects of educational and informational television programming, and the availability of program content and recent changes in this availability. It begins with several observations by others about the experience of childhood:

- In 1885 - over 100 years ago - Bernard Perez noted "The curiosity of children is a natural tendency ...:" "As far as their minds, ... all is new to them ... impressions are easily traced on [them], and the novelty of everything causes them to be easily excited to admiration and curiosity" (1885, p. 82).
- In 1934, the year in which Congress passed the Communications Act, Florence Sherbon wrote: "The drive to explore is the tool whereby the child orients himself in the big world ... A burst of interest occurs normally whenever the child's horizon is widened ..."

(p. 548-549). "At each level of development the child should look out upon his expanding world with tranquility and joy ... [and] should find his world of sensory impressions beautiful" (p. 608).

- In 1960, the year in which the Federal Communications Commission (FCC) first reminded broadcasters that providing programming for children was a special responsibility, William Martin spoke of the "insatiable curiosity-investigatory motivation of the child" (p. 75) and Selma Fraiberg noted that "... any work that deepens a child's imagination will strengthen his moral development" (p. 585).
- In 1974, the year that the FCC said that each commercial broadcaster had a "special responsibility" to program for both "pre-school and school aged children," Mildred Hardeman explained that humans are unique in their "extraordinary capacity to learn" (p. 1), describing childhood as a time when "[n]ew kinds of activity are stimulated that bring new interests, and new abilities. There is increasing capacity to ... explore, to manipulate, investigate causes and effects ... (p. 3).
- And in 1983, the year that Mark Fowler and the FCC essentially relieved broadcasters of their responsibilities toward children, William Fowler argued that "certain patterns of cognitive stimulation must be the right of every child ... [since] the richer and more complex the beginning, the more adequate the foundation upon which to build later development, and the more

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likely the future directions of interest and competence can be assured" (p. 1,5).

Two points should be evident from these quotes. First, children approach the world with a natural curiosity, eager to learn and to experience the richness of their environments. For them, all of childhood involves learning from their surroundings. They do not have to be cajoled, compromised, or condescended to; they are naturally inquisitive, eager and passionate about learning. Second, children have been this way throughout history. While government priorities and policies come and go, while regulatory responsibilities are accepted and avoided, while broadcasters alternately serve the public or corporate interests, children continue to be fascinated with the world around them. And as the merits of H.R. 3965 are debated - legislation which seeks to both protect and enrich our children - we would all do well to keep these points in the forefront.

I. Television viewing behavior

American children view an average of four hours of television per day, equalling some 15,000 to 20,000 hours by the time they reach age 18. No single activity except sleep will occupy as much of their time. For children and youth, television content is entertaining but it is also educational; as do parents, schools, and religious institutions, television imparts many messages to children about society, its values, and its expectations.

There is considerable variability in who watches, and how much they watch. For example, preschoolers watch the most, just over 28 hours per

week, or about 4 hours per day; elementary aged children watch slightly less, and adolescents view just over 3 hours per day. Viewing patterns are affected by demographics such as race and gender, and especially socioeconomic status. Recent Nielsen data indicate that children aged 2-11 watch an average of 33 hours per week in lower income families; those from upper income families watch only about half this amount (19 hours), and middle income children fall between the two groups (22 hours). For adolescents the comparable weekly averages are 27 hours, 19 hours, 21 hours. For the lower income households, the majority of the youth viewing is of commercially broadcast fare, while for the other households, cable viewing accounts for increasing percentages.

Research has also shown that the experience of viewing is different based on socioeconomic status; poor children, who are less likely to have competing experiences and competing information, rely on television more as a source of news and information, and are more likely to believe television's presentations (Greenberg, 1986) than are middle and upper income children who have access to more diverse experiences in their own lives to compare with television's portrayal of reality.

While children view several hours of television per day, only a small percentage of their total viewing - around 12-15% - is during the times when programming produced for a child audience is available. Children watch a considerable amount of programming that is not made with their special needs in mind, programming intended to be viewed, understood, and reacted to by an adult audience. One of the reasons that they watch adult-oriented

programming is because of the limited choices currently available to them on commercial television.

II. Effects of television on children

The impact of television on children is a concern long shared by Congress and the APA. Considerable research in developmental psychology has centered on the impact of television, and Congress has held about 25 hearings on the issue of children and television. In many of those hearings, the focus was generally on television's negative effects. A similar concern had occupied the efforts of social scientists, and many excellent reviews have been written on television's negative effects. But the legislation now before the Subcommittee on Telecommunications and Finance mandates a guaranteed minimum amount of educational/informational television for children ... not because of its negative effects, but because of the positive impact it has on children and their development. So I would like to limit my evaluation to the positive impacts of television - those demonstrated by accepted empirical research.

What children learn from prosocial, educational, and informational programming.[1] Television that is produced with learning as its purpose is often different from general program fare. Its content is different,

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[1]This evidence is compiled from a variety of sources, but especially Lovelace and Huston (1983), Rushton (1979), Watkins, Huston-Stein, & Wright (1980), and Williams (1981).

focusing as it does on socially valued information. Its form is different, often proceeding at a pace that allows for theme and character development, or one that encourages more involvement on the part of the viewer. The process of production is often different as well - with considerable effort expended during the process in creating and testing segments for their comprehensibility and for interest on the part of the intended audience. Those segments which do not meet with acceptance are reworked, guaranteeing effectiveness of the program when it is finally aired. This formative evaluation model was pioneered by people at Children's Television Workshop and has been quite effective, as seen by the success of its longest-running series, Sesame Street. These efforts also make good children's programming more demanding of the viewer, and more expensive for the creator and the broadcaster.

Because of efforts to make such programming understandable for specific age groups, even very young children have learned a complex array of behaviors and attitudes from prosocial and informational television. From programs such as Sesame Street and Electric Company they have learned important cognitive skills such as number and letter recognition and reading skills. Advanced science and mathematics concepts - of particular importance since the "A Nation at Risk" report (National Commission on Excellence in Education, 1983) - have been learned from 3-2-1 Contact and Square One; Reading Rainbow and Happy Days have stimulated interest in libraries, books, and most of all, in the imaginative and challenging worlds presented in literature. From Mister Rogers' Neighborhood, The Waltons, Happy Days, Lassie, and Fat Albert and the Cosby Kids, viewers have variously learned cooperation, patience, nurturance, empathy, perseverance,

affection and praise. Big Blue Marble, Freestyle, As We See It, Vegetable Soup, Carrascolendas, have all modeled and taught reduction in stereotypes based on gender and ethnicity, and more importantly, have presented the true diversity of different races and cultures. These programs as well as others such as Over Easy, Feeling Good, and the long-running Captain Kangaroo, have demonstrated effectiveness in teaching "exciting" concepts in "history, science, literature, the environment, drama, music, fine arts, human relations, other cultures and languages." No doubt that language sounds familiar; it was taken from the FCC's 1974 Policy Statement, in which the Commission indicated that each commercial broadcaster must provide age-appropriate programming for children, promising that "... in the future, stations' license renewal applications should reflect a reasonable amount of programming which is designed to educate and inform ..."[2] While the networks have contributed a few exemplary programs to this list, it must be noted that the majority of the informational and prosocial programs mentioned here are those created for and aired on the nation's public broadcasting stations.

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[2]There have been other exemplary programs on public and commercial stations, but I am not aware of any published research on their impact; I would include programs such as Wonderworks, DeGrassi Junior High, OWL-TV, Newton's Apple, Up & Coming, Pee Wee's Playhouse, Pryor's Place, ABC Schoolbreak Special among these.

How children learn from television. While they spend the most time in front of the television, preschoolers watch the set less than half the time it is on. Preschoolers and early elementary aged children understand less of television's presentation, and generally only attend to what is comprehensible. Understanding television - the words, the audio and visual codes, the dynamics of plot and character development, is a process that requires time and experience to master. Very young children, who have neither experiences nor cognitive skills to make sense of complex presentations, understand very little of the presentation. This is specially true of material that is central to the plot or theme. Preschoolers are not good at identifying plot-relevant information, selecting and sequencing this material, using inference to make assumptions, or using memory strategies to relate important content in a meaningful way. They can be helped in doing this, however. Judicious use of production techniques, such as features that focus in on relevant moments, or that highlight important content, improve attention and recall. Repetition of important material, inviting viewer participation, varying a theme in a variety of different contexts (Dorr, 1986), or providing summary segments that maintain attention and highlight the important content, also improve encoding and recall of younger viewers. Sprinkling a few prosocial messages throughout a program, especially a program which emphasizes competition, aggression, or violence, will not be effective in communicating prosocial information. This is particularly true when the prosocial information is spoken and not highlighted; in a study I conducted a few years ago, I found that the segments Bill Cosby inserted into Fat Albert and the Cosby Kids, designed to highlight the prosocial themes, almost without exception lost

the attention of the children, and with the drop in attention went any chance of their understanding the important information.

By middle elementary age, many of the skills necessary for thorough understanding have been developed. Memory strategies and inferential abilities have increased, as has the ability to select central content. With the development of these cognitive skills, as well as with their greater experiences with persons and events, children at this age are much better at making sense of television's presentations, and this ability is manifested in a general change in the types of programs preferred by this age group - leaning toward dramas and programs with more diverse and challenging content. Viewing with siblings, parents and peers, discussing content, and asking questions, all help the elementary school child learn from television.

As cognitive abilities viewing patterns and preferences change during early adolescence, so too do reasons for viewing television. Several years ago at Michigan we interviewed children about their reasons for watching television. Answers from the young ones centered on relieving boredom, having fun, and learning new information. But by early adolescence, four in ten were watching in order to be better prepared for the adult world - to learn what jobs are like, or to learn what it is like to go on a date and to fall in love. When we asked them what programs were best suited to teach them skills, they had no age-appropriate candidates; rather, the top three listed were Dallas, Love Boat, and Fantasy Island! Thus while overall viewing might decline during adolescence, selectivity about what to watch does not, and there is more focused agreement on why programs are selected - to learn about the adult world.

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The point I am making is that children of different ages need different considerations from television. Changes in both their cognitive capacities and their needs and interests indicate a program geared toward an eight-year-old will not satisfy the intellectual needs of either a five-year-old or a 12-year old. It is important that the needs of children in these three general age groupings (preschool, elementary, and early adolescence), are served by adequate amounts of age appropriate programming.

III. The availability of age-appropriate programming for children

Since 1980, the FCC has dismantled most of the protections for children that had been put into place during the preceding decades. In 1960 the Commission went on record affirming that children's programming was an important responsibility of individual broadcasters. In 1974 the Commission released a well-researched, elaborate and convincing policy statement justifying the responsibility and arguing for programming aimed at several age groups. In late 1979 and early 1980 it appeared as if the Commission was moving toward instituting programming guidelines or quotas to guarantee that the First Amendment right of our nation's children - their right of access to a real diversity of information - would be served.[3] Yet the children's television issue was placed on the "back burner" after 1980, and

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[3]The argument that any governmental requirements on broadcasters infringes on their First Amendment rights ignores several court rulings that the rights belong to the public. Other content requirements have not been seen by the courts as violating Constitutional protections (see Watkins, 1987).

ultimately the Commission's 1983 closing of the docket effectively removed responsibility for children's programming from the individual broadcaster and placed it on the entire - and ambiguous - marketplace. While unregulated marketplace competition may effectively guarantee services in some situations, it seldom works for groups which lack power or are unable to effectively mobilize or make themselves heard. It has not served to increase available programming for children. Finally, as recognized by the Circuit Court recently, the FCC's 1984 television deregulation order was enacted without significant analysis of its impact on children; consequently, it allows commercial exploitations of children who are too young to know the extent to which they are being used and manipulated. Thus the FCC must bear much of the responsibility for the state of children's television today.

Currently there is almost no commercially broadcast educational and informational children's programming available to children. For the past few years there has not been a single regularly scheduled weekday program for children on any of the major networks (ABC, CBS, NBC). An informal analysis of the current Detroit market, for example, shows that the three commercial networks contribute about eight different programs per week - all clustered on Saturday morning and all in direct competition with each other. While it therefore might appear as if children have about 24 programs available to them across the span of 15 hours, in reality they only have a five-hour period in which to view the total week's offerings. The situation is similar with the independent stations; each averages eight different programs repeated each weekday aimed at the before- and after-school audience. Few of these were made with educating and informing in mind;

rather many are simply 30-minute commercials designed to sell - not to inform and educate. Public broadcasting, however, offers around 38 hours per week of children's programs, almost all of which are educational or informational.

In his 1979 analysis of children's programming for the FCC, Turow indicated the lowest point in availability - 1948-1949, during television's infant days - saw only 10 programs offered to children during 6.5 hours per week. He contrasted this with the period 1972-73, with 62 programs offered during 34 hours per week. I would argue that in terms of availability of commercially-broadcast fare, we are much closer to the low point than to the high point. Certainly there is very little available that could be considered educational or informational. Recent estimates range from 61 minutes per week - found in a study carried out by this Subcommittee - to 84 minutes per week - found in a University of Kansas analysis (see Huston, 1985). There is a clear need for H.R. 3966 to improve the availability of commercially-broadcast informational and educational programming for children.

In many ways the broadcasters, who must operate in an intensely competitive climate, cannot be faulted for acting as they do. As long as the FCC, as a "regulatory" body, indicates that serving children is not part of each station's public interest responsibility, altruistic behavior on the part of commercial broadcasters cannot be expected in the current business climate. The 1983 FCC decision was based on the argument that a variety of delivery systems will now share responsibility for serving children's informational needs. However, commercial broadcasting still represents the major delivery system for many children who live in rural areas, or those

living in the inner city of large urban areas, or the increasing numbers of children in poverty. These children generally have no access to basic or premium cable channels; rural areas simply don't get cable, and due to prohibitive costs as well as lower-than-average subscription success, large cities are usually the last to receive cable. Additionally, in many markets, network affiliates control the "best" broadcast frequencies, the VHF channels; public broadcasting stations are relegated to UHF channels, and signal quality on UHF channels is poorer than that on VHF stations. The recent must-carry decision has serious implications for the well-being of public broadcasting stations now carried on cable, and has especially negative implications for continued availability of over-the-air children's programs. Over 200 noncommercial stations have already been dropped from cable systems since must-carry was voided. It is possible - highly possible - that in the near future many children, even those with cable, may not have easy access to what is now a major source of programming aimed at their interests and needs. Finally, it is obvious that "signals" on VCRs and videodisks are received only in households where it is financially feasible to purchase the necessary equipment and where a value is placed on informational and educational video content. Thus, public and commercial broadcast signals remain the major delivery vehicle for a significant percentage of American children.

While the 1983 FCC decision undoubtedly envisioned a marketplace where the contributions of all parties would be relatively equal, a recent Michigan State University study of national programming patterns (Siemicki, Atkin, Greenberg, & Baldwin, 1986) indicates this is hardly the case. Of all the children's program offerings during the two week study period, 38% were provided by pay cable services such as the Disney Channel, HBO, and Cinemax; 29% were provided by advertiser-supported cable, primarily Nickelodeon; 19% were provided by superstations and religious broadcasters carried on cable; 11% were accounted for by public broadcast offerings; a final 4% were provided by commercial networks. Children without access to cable would be able to view only a small percentage of what is available to those with cable.

Summary

1. Children learn positive behaviors, attitudes, and concepts from educational and informational programs designed with their needs and experiences in mind. Cooperation, empathy, task persistence, sharing, and a wide variety of academic and cognitive skills have been taught by these programs to children of diverse ages.
2. Because of differences in cognitive abilities and experiences, children at different ages need different kinds of educational and informational programming. While the industry tends to group children between the ages of 2 and 12 together, this age range represents at least three distinct cognitive and social levels: preschool, early elementary, and late elementary/early adolescence. Program themes and presentational styles appropriate for a 12-year-old will not necessarily be so for a preschooler or early elementary-school-aged child.
3. FCC decisions since 1980 have resulted in a situation in which (a) networks make no regularly scheduled weekday programming available to their stations, (b) much of the programming on independents is from production houses with direct ties to toy companies, and is aimed at selling to rather than educating children, (c) new technologies such as cable and video recorders, which have no mandate to serve in the public interest, are currently providing the majority of available programming for children, while commercial broadcasters, which have a public interest mandate, provide as little as 4% of all such content. Because so much is provided by cable, children without access to cable have very little real choice of programming available to them.

Recommendations

1. Broadcasters must provide more than 4% of the programming for our nation's children. They must be able to do this within a competitive environment, and in a way that will not jeopardize their ability to sustain themselves financially. Additionally, the market for creating and producing educational, informational, and prosocial television for children, aimed at several different ages, must be stimulated. I believe that the currently proposed legislation (H.R. 3966) will stimulate creative efforts and give no particular broadcaster a competitive edge.
2. Time and space must be made available during the broadcast day for positive children's programming. The glut of programs produced by companies with strong ties to the toy industry must not be allowed to force out better programming for our children. The seven-hour-per-week requirement will guarantee at least some available space for programming not produced with sales in mind. Furthermore, there must be a return to 9.5 minute-per-hour commercial limit, and the approval of programs which are simply 30-minute commercials must be rescinded by the FCC.
3. Public broadcasting stations, which now provide the majority of over-the-air children's programming, must be strengthened. Methods must be found to provide the Corporation for Public Broadcasting with more than subsistence money each year. In its 1979 evaluation of the success of public broadcasting, the Carnegie Commission recommended a yearly allowance of $590 million to allow it to truly function as an alternative to commercial broadcasting. This is now over twice as much as the current Administration seems willing to give it. It is clear that public broadcasting is functioning as a very real and very much needed

alternative in the case of children's television. It must be guaranteed adequate money to continue to do so. Related to this is concern over the impact of the must-carry decision. Unless there is a firm message on the part of the FCC, or more likely Congress, more cable systems will find it easy to drop public television stations from their offerings. This is simply wrong, and is counter to Commission and Congressional attempts to safeguard the interests of the viewing publics. Provisions should be made to protect public broadcasting access to cable carriage to ensure maximum availability of over-the-air television for children.

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REFERENCES

Carnegie Commission on the Future of Public Broadcasting. (1979). A public trust. New York: Author.

Fowler, W. (Ed.). (1983). Potentials of childhood. Vol. 2: Studies in early developmental learning. Lexington, MA: D.C. Heath and Co.

Fraiberg, S. 1960). The mass media: New schoolhouse for our children. Child Study, 37, 3-18.

Greenberg, B. (1986). Minorities and the mass media. In J. Bryant & D. Zillman (Eds.), Perspectives on mass media effects (pp. 165-188). Hillsdale, NJ: Erlbaum.

Hardeman, M. (Ed.). (1974). Children's ways of knowing. New York: Teachers College Press.

Howe, M. (Ed.). (1983). Learning from television: Psychological and educational research. London: Academic Press.

Huston, A. (1985, October 25). Testimony at children's television programming. (Serial No. 99-66). Hearings before the U.S. House of Representatives Subcommittee on Telecommunications, Consumer Protection and Finance (p. 13-23).

Lovelace, V., & Huston, A. (1983). Can television teach prosocial behavior? In J. Sprafkin, C. Swift, & R. Hess (Eds.), Rx television: Enhancing the preventive impact of TV (pp. 93-106). New York: Haworth Press.

Martin, W. (1960). Rediscovering the mind of the child: A significant trend in research in child development. Merrill-Palmer Quarterly, 6, 67-76.

Mielke, K. (1983). Formative research on appeal and comprehension in 3-2-1 Contact. In J. Bryant & D. Andrerson (Eds.), Children's understanding of television (pp. 241-263). New York: Academic Press.

National Commission on Excellence in Education. (1983). A nation at risk: The imperative for educational reform. Washington, DC: U.S. Government Printing Office.

Perez, B. (1885). The first three years of childhood. London: W. Swan Sonnenschein & Co.

Rushton, J. (1979). Effects of prosocial television and film material on the behavior of viewers. In L. Berkowitz (Ed.), Advances in experimental social psychology (Vol. 12). New York: Academic Press.

Sherbon, F. (1934). The child: His origin, development and care. New York: McGraw-Hill.

Slemicki, M., Atkin, D., Greenberg, B., & Baldwin, T. (1986). Nationally distributed children's shows: What cable TV contributes. Journalism Quarterly, 63, 710-718, 734.

Turow, J. (1979, October). Analysis prepared for and published as Vol. 5 in Television programming for children: A report of the Children's Television Task Force. Washington, DC: Federal Communications Commission.

Watkins, B. (1987). Improving educational and informational television for children: When the marketplace fails. Yale Law & Policy Review, 5, 345-381.

Watkins, B., Huston-Stein, A., & Wright, J. (1980). Effects of planned television programming. In E. Palmer & A. Dorr (Eds.). Children and the faces of television: Teaching, violence, selling (pp. 49-70). New York: Academic Press.

STATEMENT FOR THE RECORD

OF THE

NEW YORK CITY DEPT. OF CONSUMER AFFAIRS

The New York City Department of Consumer Affairs offers the following statement for the record in support of H.R. 3966, H.R. 4125 and H.R. 3288.

The New York City Department of Consumer Affairs is concerned about the welfare of child consumers. This March, in order to see first-hand what children think about television and how large a role it plays in their lives, my Department undertook an original research study, surveying 295 second and third graders in the New York City public school system about their attitudes towards television. Some of our findings are included in this statement.

The survey, together with other research my Department has completed, strongly indicates that children need clear-cut protection from excess levels of commercialization and advertising practices which take advantage of the younger audience. We also believe children would greatly benefit from a required minimum of educational or informational programming on broadcast stations. H.R. 3966, H.R. 4125 and H.R. 3288 achieve these aims.

Research by professional child psychologists has shown that children who are 4 or 5 years of age or younger have difficulty distinguishing fantasy from reality, and children of all ages place a good deal of trust in the people and characters they see on television shows. In addition, children who are younger than six years old often do not grasp the difference between a commercial message and other programming. Children, therefore, are unusually susceptible to advertising pitches.

In 1984, the Federal Communications Commission (FCC) significantly weakened their stand on fair children's advertising practices. These changes were grounded in the belief that in a competitive marketplace there are constraints that will properly control commercial levels, without the need for regulation. However, there is no evidence that child viewers are sensitive to the number of commercials they watch, and, as might have been expected, the amount of commercial time on children's programming has increased since the removal of the FCC's pre-1984 guidelines.

In addition, a July 1987 study by Dale Kunkel, A Survey of Non-Program Content During Children's Programming on Independent Television Stations, found that the levels of commercial matter typically presented during weekday children's programming had risen to roughly 22 percent of the total broadcast time of children's shows, or almost 13.5 minutes per hour. The investigations of a children's advocacy group, Action for Children's Television (ACT), corroborate these findings. The studies of Mr. Kunkel, ACT and others indicate that since the advertising time limits for children's television were revoked by the FCC in 1984, market forces have not been sufficient to control levels of commercial time on the shows that are meant for children.

Certainly, young children cannot be expected to control the amount of commercial time on the television shows they watch when many cannot even distinguish a commercial from a show. My Department's research showed that over 60 percent of the second and third grade children we surveyed sometimes or always watch all of the commercials on their favorite television shows.

If children are not regulating the amount of commercial time they watch, the responsibility of preventing over-exposure falls to their parents. However, with over half of all mothers in the United States working full-time and many children currently living in single parent homes, it is not realistic to assume that parents have the time to regulate the number of commercials their children are exposed to while watching children's programming. It should not be necessary for parents to have to restrict their children's viewing of programming that has been specifically produced for a young audience. Parents should be able to feel comfortable letting their children watch Saturday morning and after-school television without having to screen it beforehand.

When youngsters watch commercials, the message is not lost on them. Our survey revealed that children are extremely brand aware. When asked to name their favorite toy, drink and cereal, over 80 percent, nearly 70 percent and over 90 percent, respectively, of the children named brand name items. Children's advertising exists --and is big business-- because it works. According to Nielson data, advertisers spend an estimated $ 200 million a year for spots on Saturday morning programming on the three major networks alone, excluding the costs of producing the commercials. This estimate does not include the amount spent for advertising on children's programs on Sundays or during the week, nor the amount spent for advertising on children's programs which are shown on independent stations. Clearly, television advertising aimed at children not only make them aware of brand names, but also persuades them to buy the advertised products (or convince their parents to buy the advertised products for them), or American businesses would not spend so much money to reach these child viewers.

The levels of allowable commercial time set by the 1974 Policy Statement and by the bills now before you --twelve minutes an hour on the weekend and 9 1/2 minutes per hour on weekdays-- are more than liberal. Broadcasters should be able to provide for quality programming for children within commercialization limits such as these, as they did in the years before the Report and Order.

If all broadcasters were held to the same standards of advertising on children's programming, the quality of children's television would improve, without penalizing one station over another. In exchange for being allowed to use --and make large amounts of revenue from-- public airwaves, television stations have the responsibility to better serve the interests of the child viewer, without resorting to unreasonably high levels of commercialization or unfair advertising practices. Children's television can be a positive entertainment, educational and informational force in a child's development.

Interestingly, my researchers found that when asked to name their favorite TV show, along with the usual adventure and cartoon shows, many children talked about "Double Dare" and "Ducktales", two new quality programs on broadcast television, over less substantial offerings. From talking to New York City schoolchildren, it is clear that youngsters are tired of poorly done shows that underestimate their intelligence. There needs to be more emphasis placed on quality programming for children. My Department does not think every children's show must be strictly educational or informational, there is a place in children's programming for quality entertainment, too. Our research indicates that developing quality children's shows will not only be good for our children, but good business for broadcast stations too.

Video cassette recorders and cable television stations now offer more programming possibilities for young viewers, but only to those children whose families can afford (and choose) to buy these alternate forms of entertainment. However, the existence of these new technologies should not be used as an excuse for the poor quality of programs on or the overcommercialization of children's fare on broadcast stations. For many children, broadcast television is the only choice available, and these children should be able to watch quality children's programming, without being exposed to immoderate levels of commercialization.

The New York City Department of Consumer Affairs also supports greater scrutiny of the various techniques used to sell products to children and urges the reimposition of guidelines on host-selling and product tie-ins. According to the Children's Advertising Review Unit of the Council of Better Business Bureaus, Inc., studies have shown that the mere appearance of a character using a product can greatly alter a child's perception of that product. In addition, advertising promotions by show characters make it even more difficult than it already is for young children to distinguish programs from commercials.

Disclaimers such as "supplies limited", "product sold unassembled" or "products sold separately" are now often either put on the screen in text, making it impossible for children who can't read to get the message, or are stated in language often too advanced for children to understand.

In its 1984 Report and Order the FCC talked about the interests of children, but did nothing to eliminate from children's programming host-selling, tie-ins and other practices that involve the use of program characters to sell or promote commercial products.

Broadcasters were able to support their children's programming for years with such requirements, and there is no reason they cannot do so again. The New York City Department of Consumer Affairs is in favor of placing controls on the amount and type of commercials children see during children's programming, and of providing for a minimum requirement for amounts of educational and informational programming offered per week.

IN THE UNITED STATES OF AMERICA
BEFORE THE
FEDERAL COMMUNICATIONS COMMISSION

Washington, D.C. 20554

IN THE MATTER OF

REVISION OF PROGRAMMING AND COMMERCIALIZATION POLICIES, ASCERTAINMENT REQUIREMENTS AND PROGRAM LOG REQUIREMENTS FOR COMMERCIAL TELEVISION STATIONS	)	MM Docket No. 83 670

COMMENTS OF THE AMERICAN
ASSOCIATION OF ADVERTISING AGENCIES, INC.

The American Association of Advertising Agencies, Inc. ("A.A.A.A.") submits these comments in response to the Further Notice of Proposed Rulemaking/Notice of Inquiry issued by the Federal Communications Commission on November 9, 1987.* They are part of the A.A.A.A.'s continuing effort to assist the Commission in formulating workable policies in the area of children's television. Regarding commercialization practices in children's television programming, the A.A.A.A. sees no need for the Commission to modify the regulatory policy of non-interference which has prevailed for the past several years.

As the national organization of the advertising agency business, with more than 740 member agencies placing

* 52 Fed. Reg. 44616 (Nov. 20, 1987)

nearly 80% of all national advertising in the United States, the A.A.A.A. has long been an active participant in Commission proceedings relating to children's television.* Many A.A.A.A. member agencies produce advertising for their clients which is designed to inform viewers, including children, about children's products, and which is placed in children's programming. On several occasions, the A.A.A.A. has presented to the Commission its beliefs that advertising and the advertising industry make possible the national commercial television system, and that advertising to children is an integral--and not harmful--component of that beneficial relationship. Because of the kinship between advertising and commercial television, including children's programming, the A.A.A.A. opposes imposition of unnecessary federal regulation such as quantitative commercial guidelines.

Our opposition to reimposition of commercialization guidelines arises because we believe that proponents of such guidelines view children's advertising as harmful, somehow requiring that children need to be protected from it. However,

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* See, e.g., Comments, filed May 12, 1978, Petition of Action for Children's Television; Comments, filed February 12, 1979, Second Notice of Inquiry; Comments, filed June 16, 1980, Children's Television Programming and Advertising Practices, Docket No. 19142; Comments, filed April 28, 1983, Children's Television Programming and Advertising Practices, Docket No. 19142; Comments, filed November 2, 1983, Revision of Programming and Commercialization Policies, MM Docket No. 83-670.

children did not need such "protection" in 1984 or 1986, when the Commission determined that there was no need for commercialization guidelines in children's television,* and we are aware of no market changes since then that suggest they need such "protection" now.

Children's advertising does not harm children. Commercials for products that are aired during children's programming are designed to show the product's features and explain its benefits in terms understandable to children, as well as others. Those commercials are carefully reviewed by the advertiser, its advertising agency, and the station or network that will air the advertising. In addition, the advertising industry's own self-regulatory mechanism, the National Advertising Division ("NAD") of the Council of Better Business Bureaus, continues its initiatives.** In fact, children's advertising is at bottom like all other advertising in that advertisers, motivated by their hope for sales and operating within standards and guidelines imposed by the

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* See Report and Order, MM Docket No. 83-670, 98 FCC 2d 1076 (1984); Memorandum Opinion and Order, MM Docket No. 83-670, 104 FCC 2d 358 (1986).

** NAD's special unit for children's advertising, the Children's Advertising Review Unit ("CARU"), continues to review advertisements challenged by consumers, competitors or public interest organizations. If an advertisement is found not to satisfy the requirements of the CARU code, modifications or withdrawal are the predominant remedy.

private sector, seek advertising particularly suited to the capabilities of the intended audience.

Contrary to the assertions of critics of children's advertising, children are not putty in the hands of advertisers. As has been explained by one authoritative veteran of years working to create advertising attractive to children:

> We must stop treating children as helpless, gullible sheep who need to be carefully watched and protected. There is no evidence that television is the wolf in sheep's clothing that is slowly devouring our children, though many critics would have you believe that. Children are not that easy to entertain or persuade; they will not watch [everything] put in front of them on television, and will not buy (or ask to buy) everything that is cleverly advertised to them. In reality, children are intelligent, discriminating, and skeptical. Despite their lack of experience, they are not that easily fooled.*

Without doubt, advertisers seek to inform and to influence the preferences of children by means of advertisements intended to stimulate their interest. Nonetheless, the continuing procession of products which have failed in the marketplace despite heavy investment in advertising during children's programming demonstrates most vividly that children can be both sophisticated and discerning even while very young.

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* Cy Schneider, Children's Television: The Art, The Business, and How It Works (Chicago: NTC Business Books, 1987), at 2.

Nor are children able to force their hapless parents into unwarranted purchasing decisions. In fact, the decision-making process surrounding potential purchase of a "children's" product is not unlike the adult-child dialogue and interaction that occurs in connection with many regular activities. Children lobby their parents for a later bedtime with the same vigor used in urging a particular purchase decision. Advertising provides children with a source of information about aspects of our society, and, by introducing children to basic concepts underlying our free market economy, helps to prepare them for adult American life.

Critics of children's programming and the advertising which supports it assume that broadcast television uses scarce airwaves and that children have no media alternatives. Yet children are more independent than their "protectors" choose to admit, and media competition for their attention will serve to preclude over-commercialization. If a program has "too many" commercials to suit a particular child, the child will simply change the channel or walk away from (or turn off) the TV set. If a child becomes dissatisfied or bored with a program that concentrates too much on toys, interactive or otherwise, the child will likewise cease to watch. If enough children turn the channel, of course, programming unable to maintain interest will be replaced by programming that can.

Thus, market forces will govern the market, making artificial guidelines unnecessary. While critics of advertising to children repeat the same arguments rejected by the Commission in 1984 and 1986, they are not able to identify a market failure which warrants reimposition of regulatory rules.

This is especially true today in light of the proliferation of choices offered by cable television. According to TV Dimensions '87,* the latest A.C. Neilson count of American homes having television sets numbered 87.4 million. Of that figure, 48% have cable television, a number that is expected to rise to 60% by 1990. Most cable systems offer several channels which concentrate on children's programming, thereby assuring that many children have access to a continuing variety of children's programs. If children are dissatisfied for any reason with what the network broadcasters are offering them, their switch to cable programming will lead broadcasters to make programming and policy changes.

As happens with all governmental guidelines, reimposing commercialization guidelines will create an administrative burden for the Commission, and burdens for broadcasters and advertisers. Of course, to the extent that quantitative limitations on commercials are imposed, there may

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* TV Dimensions '87 (New York: Media Dynamics, 1987), p. 11, 29.

be less available media time in children's programming. If so, the price of such media time could rise. Higher media costs could mean fewer advertisers, and since advertising supports children's programming, fewer broadcast choices for children's programming. These negative aspects of reimposing the commercialization guidelines must be weighed in considering the alleged--but unproven--benefits which critics of television advertising say will accrue from government intrusion.

The reasons advanced today by the A.A.A.A. and others against government intrusion into children's television are as compelling as they were several years ago when the Commission decided that commercialization standards were unnecessary. Again and again the advertising community has heard the assertions of critics that commercial advertising must be limited by government fiat because it has harmful effects on children. The Commission rejected those arguments twice before; by now, they are simply tiresome.

Advertising self-regulation, operating in a free market, is working--providing an effective guarantee of quality children's advertising. Market forces, acting without government interference, will serve the interest of children by naturally regulating what is broadcast to them, without the

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need for intrusive governmental regulations. The A.A.A.A. joins with all others who have submitted comments in opposition to the reimposition of quantitative commercialization requirements.

Date: February 19, 1988

Respectfully submitted,

AMERICAN ASSOCIATION OF
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