

L. Fairbank, 1980 Financial Ctr., Des Moines, IA 50309. *alcohol, in bulk*, from Decatur, IL, to points in IA, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Bro Oil Co., Inc., 2028 Southeast 14th St., Des Moines, IA 50317. Send protests to: Herbert W. Allen, DS, ICC, 518 Federal Bldg., Des Moines, IA 50309.

MC 148447 (Sub-1TA), filed October 30, 1979. Applicant: LCBS TRUCKING ENTERPRISES, 329 Quida, Irving, TX 75061. Representative: Leo Baldree (address same as carrier). Contract carrier, irregular routes; *Printing paper in rolls* from Dallas, TX to points in AR, AZ, CA, CO, GA, IL, KS, LA, NM, OK, TN, and (2) from GA and LA to Dallas, TX under a continuing contract with Paper Tech, Inc., Dallas, TX, for 180 days. An underlying ETA for 90 days has been filed. Supporting shipper(s): Paper Tech, 4924 Woodall St., Dallas, TX. Send protests to: Opal M. Jones, TCS, ICC, 9A27 Federal Bldg., 819 Taylor St., Ft. Worth, TX 76102.

MC 148447 (Sub-2TA), filed Oct. 30, 1979. Applicant: LCBS TRUCKING ENTERPRISES, 329 Quida, Irving, TX 75061. Representative: Leo Baldree, 329 Quida, Irving, TX 75061. Contract, Irregular, *Polystyrene Plastic articles weighing less than 2 pounds per cubic foot (except commodities in bulk in tank vehicles)*, from the facilities of Dolco Packaging Co. at or near Dallas, TX to points in AZ, CO, KS, LA, MO, MS, NE, NM, under a continuing contract with Dolco Packaging Co. for 180 days. Underlying ETA filed. Supporting shipper(s): Dolco Packaging, 4433 Bronze Way, Dallas, TX 75236. Send protests to: Opal M. Jones, TCS, Rm. 9A27 Federal Bldg., 819 Taylor St., Fort Worth, TX 76102.

MC 148507 (Sub-TA), filed October 29, 1979. Applicant: LIQUID SUGAR TRANSPORTATION CORPORATION, 1265-66th Street, Emeryville, CA 94608. Representative: Walter H. Walker, III, (415) 986-1414, Handler, Baker, Greene & Taylor, 100 Pine Street, Suite 2550, San Francisco, CA 94104. *Contract carrier, irregular routes: Liquid food grade sweeteners in bulk, and dry granulated food grade sweeteners* between points in states of CA, OR, WA, ID, MT, UT, NV, AZ and WY, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Liquid Sugars, Inc., P.O. Box 96, Oakland, CA 94604. Send protests to: A. J. Rodriguez, 211 Main Street, Suite 500, San Francisco, CA 94105.

MC 148517 (Sub-1TA), filed November 14, 1979. Applicant: CENTRAL MICHIGAN TRUCKING, INC., P.O. Box 175, Grand Rapids, Michigan 49501.

Representative: Michael P. Zell, P.O. Box 175, Grand Rapids, MI 49501. Furniture, carpeting, appliances, fixtures and materials, equipment and supplies used by manufacturers of furniture, appliances, carpeting and fixtures; between all points in and bordered by the States of MN, IA and MO on the west and KY and VA on the south. For 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): There are approximately 27 supporting shippers. Their statements may be examined at the office listed below and Headquarters. Send protests to: C. R. Flemming, 300 E. Michigan Avenue, Lansing, MI 48933.

MC 148637, filed October 16, 1979. Applicant: BERLIN TRANSPORT, INC., Locust Street, Washingtonville, New York 10914. Representative: John T. Hildemann, Esq., P.O. Box D, Newark, NJ 07105. Contract carrier: irregular routes: *Small business machines, photocopy machines, small computers, automatic typewriters, and materials and supplies used in connection therewith*, between points in Bergen, Hudson, and Essex Counties, NJ, on the one hand, and, on the other, points in NY, CT, RI, MA, NJ, VT, NH and ME, under contract with 3M Business Prod. Sales, Inc., for 180 days. Supporting shipper(s): 3M Business Prod. Sales, Inc., 30 Enterprise Avenue, Secaucus, NJ. Send protests to: David M. Miller, DS, ICC, 436 Dwight Street, Springfield, MA 01103.

By the Commission.
Agatha L. Mergenovich,
Secretary.

[FR Doc. 80-618 Filed 1-8-80; 8:45 am]
BILLING CODE 7035-01-M

[Fourth Section Application No. 43784]

Slag, Godwin and Sligo, Tenn., to Belton, Gould and Rogers, Tex.

January 4, 1980.

The Commission is in receipt of the above-entitled and numbered application for relief from the long-and-short-haul provision of 49 U.S.C. 10726 (formerly Section 4 of the IC Act).

Filed by: Southwestern Freight Bureau, Agent (No. B-43), on behalf of carriers parties to the schedule shown below.

Commodities involved: Slag, in carloads.

From: Godwin and Sligo, TN.
To: Belton, Gould and Rogers, TX.
Grounds for relief: Market

Competition.

Schedules filed containing proposed rates: Supplement 66 to Southwestern Freight Bureau, Agent, Tariff ICC SWFB

4319. Rates are published to become effective January 31, 1980.

Protests against the granting of an application must be prepared in accordance with Rule 1100.40 of the General Rules of Practice (49 CFR 1100.40) and filed within 15 days from the date of publication of this notice in the Federal Register.

By the Commission.
Agatha L. Mergenovich,
Secretary.

[FR Doc. 80-618 Filed 1-8-80; 8:45 am]
BILLING CODE 7035-01-M

[Ex Parte 241; Seventeenth Revised Exemption No. 128]

The Atchison, Topeka & Santa Fe Railway Co. et. al.; Exemption Under Mandatory Car Service Rules

It appearing, That the railroads have mutually agreed to use of each other's empty plain cars having mechanical designations "XM," "XMI," "XMIH," "FM"—less than 200,000 lbs., "GA," "GB," "GD," "GH," and "GS" and bearing reporting marks assigned to such carriers.

It further appearing, That these railroads have mutually agreed to participate in an Expanded Clearinghouse Project in which each road will treat the cars of the other roads as system cars, with the Car Service Division of the AAR acting as agent.

It is ordered, That, pursuant to the authority vested in me by Car Service Rule 19, empty plain cars described in the Official Railway Equipment Register, ICC RER 6410-C, issued by W. J. Trezise, or successive issues thereof, as having mechanical designations of "XM," "XMI," "XMIH," "FM"—less than 200,000 lbs., "GA," "GB," "GD," "GH," and "GS" and bearing the following reporting marks are exempt from provisions of Car Service Rules 1 and 2, while on the lines of any of the railroads named below. Any Clearinghouse ownership car bearing one of the applicable mechanical designations may be loaded out via a non-clearinghouse railroad if the car is placed empty by a clearinghouse road at a point open to reciprocal switching.

The Atchison, Topeka and Santa Fe Railway Company. Reporting Marks: ATSF.

Effective August 22, 1976.

Boston and Maine Corporation. Reporting Marks: BM. Effective February 4, 1979.

*Chicago and North Western Transportation Company. Reporting Marks: CNW-CGW-CMO-FDDM-MSTL. Effective January 13, 1980.

*Addition.

Chicago, Milwaukee, St. Paul and Pacific Railroad Company. Reporting Marks: MILW. Effective July 15, 1976.

Chicago, Rock Island and Pacific Railroad Company. Reporting Marks: RI-ROCK. Effective September 12, 1976.

Consolidated Rail Corporation. Reporting Marks: BCK-CNJ-CR-DL&W-EL-ERIE-LV-NH-NYC-PAE-PC-PCA-PRR-RDG-TOC. Effective November 6, 1977.

Illinois Central Gulf Railroad Company. Reporting Marks: ICG-GM&O-IC-WLO. Effective August 22, 1976.

Louisville and Nashville Railroad Company. Reporting Marks: L&N-CIL-MON-NC. Effective August 15, 1976.

Missouri-Illinois Railroad Company. Reporting Marks: MI. Effective July 15, 1976.

Missouri Pacific Railroad Company. Reporting Marks: MP-C&EI-KO&G-T&P. Effective July 15, 1976.

*Norfolk and Western Railroad Company. Reporting Marks: ACY-N&W-NKP-P&WV-VGN-WAB-CHW-NJII-NFD. Effective January 13, 1980.

Seaboard Coast Line Railroad Company. Reporting Marks: SCL-ACL-C&WC-SAL. Effective August 15, 1976.

***Waterloo Railroad Company.

In is further ordered, That this order will become effective for specific ownerships on dates to be set by the Car Service Division as each road is phased into the Project participants, and to advise the undersigned.

Effective 12:01 a.m., January 13, 1980, and continuing in effect until further order of this Commission.

Issued at Washington, D.C., December 19, 1979.

Interstate Commerce Commission.

Joel E. Burns,

Agent.

[FR Doc. 80-622 Filed 1-8-80; 8:45 am]

BILLING CODE 7035-01-M

[Ex Parte 241; Seventy-Sixth Revised Exemption No. 90]

Exemption Under Mandatory Car Service Rules

To All Railroads

It appearing, That the railroads named below own numerous 50-ft. plain boxcars; that under present conditions there are substantial surpluses of these cars on their lines; that return of these cars to the owners would result in their being stored idle; that such cars be used by other carriers for transporting traffic offered for shipments to points remote from the car owners; and that compliance with Car Service Rules 1 and 2 prevents such use of these cars, resulting in unnecessary loss of utilization of such cars.

It is ordered, That pursuant to the authority vested in me by Car Service Rule 19, 50-ft. plain boxcars described in the Official Railway Equipment Register, ICC RER 6410-C, issued by W. J.

***Waterloo Railroad Company eliminated. Listed under Illinois Central Gulf effective January 13, 1980.

Treize, or successive issues thereof, as having mechanical designation "XM," and bearing reporting marks assigned to the railroads named below, shall be exempt from provisions of Car Service Rules 1, 2(a) and 2(b).

Aberdeen and Rockfish Railroad Company. Reporting Marks: AR.

The Ahnapee & Western Railroad Company. Reporting Marks: AHW.

Ann Arbor Railroad System, Michigan Interstate Railway Company, Operator. Reporting Marks: AA.

Apalachicola Northern Railroad Company. Reporting Marks: AN.

* The Arcata and Mad River Railroad Company. Reporting Marks: AMR.

Atlanta & Saint Andrews Bay Railway Company. Reporting Marks: ASAB.

Bath and Hammondsport Railroad Company. Reporting Marks: BH.

* Burlington Northern Inc. Reporting Marks: BN-CBQ-GN-NP-SPS

Cadiz Railroad Company. Reporting Marks: CAD.

Camino, Placerville & Lake Tahoe Railroad Company. Reporting Marks: CPLT.

City of Prineville. Reporting Marks: COP.

The Clarendon and Pittsford Railroad Company. Reporting Marks: CLP.

Columbus and Greenville Railroad Company. Reporting Marks: CAGY.

Delta Valley & Southern Railroad Company. Reporting Marks: DVS.

Detroit, Toledo and Ironton Railroad Company. Reporting Marks: DT&IDTI.

Duluth, Missabe and Iron Range Railroad Company. Reporting Marks: DMIR.

East Camden & Highland Railroad Company. Reporting Marks: EACH.

East St. Louis Junction Railroad Company. Reporting Marks: ESLJ.

Galveston Wharves. Reporting Marks: GWF.

Genesee and Wyoming Railway Company. Reporting Marks: GNWR.

Green Mountain Railroad Corporation. Reporting Marks: GMRC.

Greenville and Northern Railway Company. Reporting Marks: GRN.

The Hutchinson and Northern Railway Company. Reporting Marks: HN.

Helena Southwestern Railroad Company. Reporting Marks: HSW.

Illinois Terminal Railroad Company. Reporting Marks: ITC.

Indiana Eastern Railroad And Transportation, Inc. D/B/A The Hoosier Connection. Reporting Marks: HOSC.

Lake Superior & Ishpeming Railroad Company. Reporting Marks: LSI.

Lamoille Valley Railroad Company. Reporting Marks: LVRC.

Lancaster and Chester Railway Company. Reporting Marks: LC.

Lenawee County Railroad Company, Inc. Reporting Marks: LCRC.

Longview, Portland & Northern Railway Company. Reporting Marks: LPN.

Louisiana Midland Railway Company. Reporting Marks: LOAM.

Louisville and Wadley Railway Company. Reporting Marks: LW.

Louisville, New Albany & Corydon Railroad Company. Reporting Marks: LNAC.

Manufacturers Railway Company. Reporting Marks: MRS.

Maryland and Delaware Railroad Company. Reporting Marks: MDDE.

*Additions.

McCloud River Railroad Company. Reporting Marks: MR.

Middletown and New Jersey Railway Company, Inc. Reporting Marks: MNJ.

* Mississippian Railway. Reporting Marks: MISS.

Missouri-Kansas-Texas Railroad Company. Reporting Marks: MKT-BKTY.

New Hope and Ivyland Railroad Company. Reporting Marks: NHIR.

New Orleans Public Belt Railroad. Reporting Marks: NOPB.

New York, Susquehanna and Western Railroad Company. Reporting Marks: NYSW.

Octararo Railway, Inc. Reporting Marks: OCTR.

Oregon & Northwestern Railroad Co. Reporting Marks: ONW.

Pearl River Valley Railroad Company. Reporting Marks: PRV.

Peninsula Terminal Company. Reporting Marks: PT.

* Pittsburgh, Allegheny & McKees Rocks Railroad Company. Reporting Marks: PA&M.

Port Huron and Detroit Railroad Company. Reporting Marks: PHD.

Port of Tillamook Bay Railroad. Reporting Marks: POTB.

Providence And Worcester Company. Reporting Marks: PW.

Raritan River Rail Road Company. Reporting Marks: RR.

St. Lawrence Railroad. Reporting Marks: NSL.

St. Louis Southwestern Railway Company. Reporting Marks: SSW.

St. Marys Railroad Company. Reporting Marks: SM.

Sandersville Railroad Company. Reporting Marks: SAN.

Savannah State Docks Railroad Company. Reporting Marks: SSDK.

Sierra Railroad Company. Reporting Marks: SERA.

Southern Pacific Transportation Company. Reporting Marks: SP.

Southern Railway Company. Reporting Marks: SOU.

Terminal Railway, Alabama State Docks. Reporting Marks: TASD.

The Texas Mexican Railway Company. Reporting Marks: TM.

Toledo, Peoria & Western Railroad Company. Reporting Marks: TPW.

Union Railroad of Oregon. Reporting Marks: UO.

Vermont Railway, Inc. Reporting Marks: VTR.

Virginia Central Railway. Reporting Marks: VC.

Wabash Valley Railroad Company. Reporting Marks: WVRC.

WCTU Railway Company. Reporting Marks: WCTR.

Youngstown & Southern Railway Company. Reporting Marks: YS.

Yreka Western Railroad Company. Reporting Marks: YW.

Effective December 15, 1979, and continuing in effect until further order of this Commission.

Issued at Washington, D.C., December 13, 1979.

Interstate Commerce Commission.

Robert S. Turkington,

Agent.

[FR Doc. 80-623 Filed 1-8-80; 8:45 am]

BILLING CODE 7035-01-M

Sunshine Act Meetings

Federal Register

Vol. 45, No. 6

Wednesday, January 9, 1980

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

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[M-262, Amdt. 2; Jan. 4, 1980]

CIVIL AERONAUTICS BOARD.

Notice of deletion and addition of items to the January 4, 1980, agenda.
TIME AND DATE: 9:30 a.m., January 4, 1980.

PLACE: Room 1027, 1825 Connecticut Avenue, N.W., Washington, D.C. 20428.

SUBJECT:

Deletion: 10. Docket 34402, Application of Klondike Air, Inc. for certificate authority for passenger, mail and cargo authority between Anchorage and Sparrevohn, Alaska (Memo 9383, BDA).

Deletion: 28. Dockets 37100, 37107, and 37148, Pan American's proposed Group Contractor Fares in the U.S.-Germany and Los Angeles-London markets, and National's proposed Contract Bulk Fares in the Miami/Ft. Lauderdale-New York/Newark markets (OGC, BDA).

Added: 28a. Docket 36418, Petitions for Reconsideration of Order 79-12-158 (Memo 9379-B, BCP).

STATUS: Open.

PERSON TO CONTACT: Phyllis T. Kaylor, the Secretary, 202-673-5068.

SUPPLEMENTARY INFORMATION: Items 10 and 28 are being deleted from the January 4, 1980 agenda in order to allow the staff additional time for coordination. Item 28a was added because it concerns target deadlines set by Order 79-12-15 for the appointment of a trustee and the establishment of a trust for the purpose of disposing of a block of stock in Wien Air Alaska illegally acquired last summer. Both of these deadlines are rapidly approaching. Indeed, the first may even occur before the next Board Meeting. Since the parties affected by Order 79-12-158 are

requesting an extension on these deadlines, it is urgent that this matter be added to the January 4, 1980 meeting. The parties' pleadings for reconsideration were filed on January 2nd. According, this request for a calendar addition could not have been made any earlier. Accordingly, the following Members have voted that Items 10 and 28 be deleted and that Item 28a be added to the January 4, 1980 agenda and that no earlier announcement of these changes was possible:

Chairman, Marvin S. Cohen
 Member, Richard J. O'Melia
 Member, Elizabeth E. Bailey
 Member, Gloria Schaffer

[S-42-80 Filed 1-7-80; 3:08 pm]

BILLING CODE 6320-01-M

2

COMMODITY FUTURES TRADING COMMISSION.

TIME AND DATE: 11:00 a.m., January 18, 1980.

PLACE: 2033 K Street, N.W., Washington, D.C., 8th floor conference room.

STATUS: Closed.

MATTERS TO BE CONSIDERED: Surveillance Briefing.

CONTACT PERSON FOR MORE INFORMATION: Jane Stuckey, 254-6314.

[S-37-80 Filed 1-7-80; 10:07 am]

BILLING CODE 6351-01-M

3

FEDERAL COMMUNICATIONS COMMISSION.

TIME AND DATE: 9:30 a.m., Wednesday, January 9, 1980.

PLACE: Room 856, 1919 M Street, N.W., Washington, D.C.

STATUS: Special Closed Meeting.

MATTERS TO BE CONSIDERED: Change from Closed to Open.

The Federal Communications Commission previously announced on January 2, 1980, (Public Notice No. 24883) its intention to hold a Special Closed Meeting, January 9, 1980, on the subject of *Results of the 1979 General World Administrative Radio Conference*. This item has been rescheduled as part of the Special Open Meeting, Wednesday, January 9, 1980 at 9:30 a.m., in Room 856, at 1919 M Street, N.W., Washington, D.C.

Additional information concerning this meeting may be obtained from Edward Dooley, FCC Public Affairs Office, telephone number (202) 632-7260.

Issued: January 7, 1980.

[S-41-80 Filed 1-7-80; 3:08 pm]

BILLING CODE 6712-01-M

4

FEDERAL ELECTION COMMISSION.

"FEDERAL REGISTER" NO. 6.

PREVIOUSLY ANNOUNCED DATE AND TIME: Tuesday, January 8, 1980 at 10:00 a.m.

CHANGE IN MEETING: The F.O.I.A. appeal has been withdrawn from the agenda.

* * * * *

PREVIOUSLY ANNOUNCED DATE AND TIME: Thursday, January 10, 1980 at 10:00 a.m.

CHANGES IN MEETING: The following items have been withdrawn from the agenda:

1. Expedited Compliance Procedures.
2. Audit Advisory Panel.

The following items have been added to the agenda:

1. New Legislation—H.R. 5010: (a) Regulation Overview, (b) Immediate Impact of H.R. 5010.
2. Presidential monthly status report.
3. Reports on financial activity for Presidential prenomination campaigns.

PERSON TO CONTACT FOR INFORMATION: Mr. Fred Eiland, Public Information Officer, telephone 202-523-4065.

Marjorie W. Emmons,

Secretary to the Commission.

[S-43-80 1-7-80; 3:34 pm]

BILLING CODE 6715-01-M

5

[USITC SE-80-3]

INTERNATIONAL TRADE COMMISSION.

TIME AND DATE: 10:00 a.m., Tuesday, January 15, 1980.

PLACE: Room 117, 701 E Street, N.W., Washington, D.C. 20436.

STATUS: Open to the public.

MATTERS TO BE CONSIDERED:

1. Agenda.
 2. Minutes.
 3. Ratifications.
 4. Petitions and complaints (if necessary):
- a. Computer form tractors (Docket No. 613).
5. Leather wearing apparel (Inv. TA-201-40)—Briefing and vote on injury.

6. Post-Employment Conflict of Interest Regulations.

7. Any items left over from previous agenda.

CONTACT PERSON FOR MORE INFORMATION: Kenneth R. Mason, Secretary, 202-523-0161.

[S-38-80 Filed 1-7-80; 11:45 am]

BILLING CODE 7020-02-M

6

[USITC SE-80-4]

INTERNATIONAL TRADE COMMISSION.

TIME AND DATE: 10:00 a.m., Thursday, January 17, 1980.

PLACE: Room 117, 701 E Street, N.W., Washington, D.C. 20436.

STATUS: Open to the public.

MATTERS TO BE CONSIDERED: 1. Leather wearing apparel (Inv. TA-201-40)—Vote on remedy (if necessary).

CONTACT PERSON FOR MORE INFORMATION: Kenneth R. Mason, Secretary, 202-523-0161.

[S-39-80 Filed 1-7-80; 11:45 am]

BILLING CODE 7020-02-M

7

NUCLEAR REGULATORY COMMISSION.

TIME AND DATE: January 3, 4, 8, 9 (Changes) and January 11, 1980.

PLACE: Commissioners' Conference Room, 1717 H Street, N.W., Washington, D.C.

STATUS: Open and Closed.

MATTERS TO BE CONSIDERED:

Thursday, January 3

9:30 a.m.

1. Affirmation Session (approximately 5 minutes, public meeting) was cancelled.
2. Discussion of Management-Organization and Internal Personnel Matters (approximately 2 hours, closed—Ex. 2 and 6) was cancelled.

Friday, January 4 (Additional Item)

12:30 p.m.

Discussion of Plans for Receipt and Release of Special Inquiry Report (approximately 1 hour, public meeting).

Tuesday, January 8 (Changes)

9:30 a.m.

Discussion of Organizational Aspects of Emergency Planning (approximately 2 hours public meeting) rescheduled from 1:30 p.m.

1:30 p.m.

Discussion of Management-Organization and Internal Personnel Matters (approximately 1½ hours, closed—Ex. 2 & 6) rescheduled from 9:30 a.m.

Wednesday, January 9 (as Announced)

9:30 a.m.

Continuation of Briefing on Action Plan (approximately 2½ hours, public meeting).

1:30 p.m.

1. Meeting with AIF on Licensing Pause (approximately 1 hour, public meeting).
2. Discussion of TMI Unit 1 Management Capability and Technical Resources (approximately 1½ hours, public meeting).

Friday, January 11

1:30 p.m.

Discussion of OGC Study of NRC's Appellate System (approximately 1 hour, public meeting).

ADDITIONAL INFORMATION: On January 2, the Commission, by a vote of 3-0 (Commissioners Gilinsky and Bradford not present) determined that pursuant to 5 U.S.C. 552b(e)(1) and § 9.107(a) of the Commission's Rules, Commission business required that the briefing on Order in Point Beach, held that day, be held on less than one week's notice to the public.

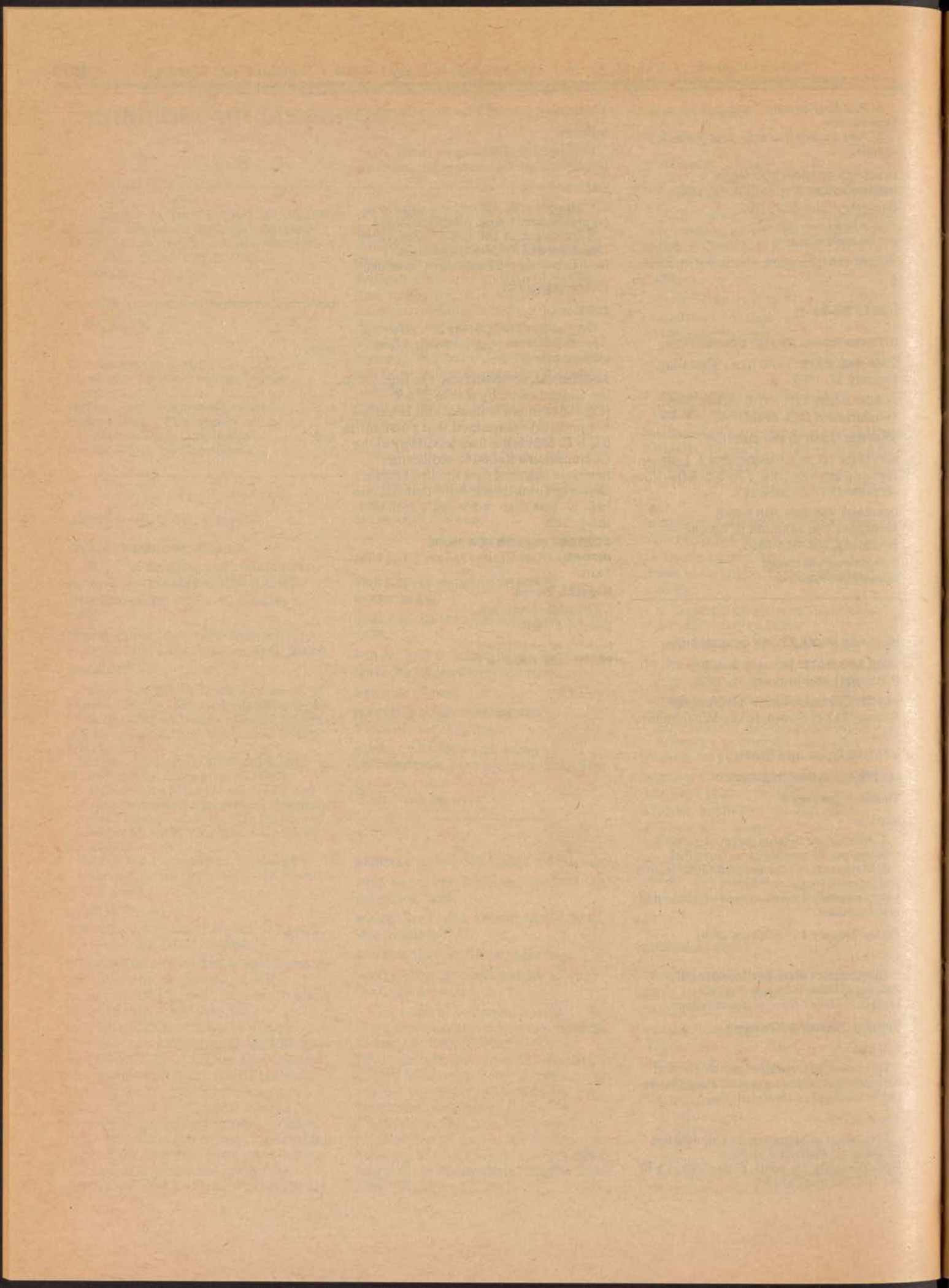
CONTACT PERSON FOR MORE INFORMATION: Walter Magee (202) 634-1410.

Roger M. Tweed,
Office of the Secretary.

January 4, 1980.

[S-40-80 Filed 1-7-80; 1:55 pm]

BILLING CODE 7590-01-M



federal register

Wednesday
January 9, 1980

Part II

**Federal
Communications
Commission**

**Children's Television Programming and
Advertising Practices; Proposed Rules**

**FEDERAL COMMUNICATIONS
COMMISSION**
47 CFR Part 73
[Docket No. 19142; FCC 79-851]
**Children's Television Programming
and Advertising Practices**
AGENCY: Federal Communications
Commission.

ACTION: Notice of Proposed Rulemaking.

SUMMARY: The Federal Communications Commission proposes a set of options for Commission action to improve television programming for children. This action follows upon a staff report showing that broadcasters have not met the requirements set forth in the Commission's 1974 *Children's Television Report and Policy Statement*. The options include rescinding the existing *Policy Statement*, maintaining or modifying the *Policy Statement*, adopting mandatory programming rules, adopting license renewal processing guidelines, and encouraging increases in the number of video outlets.

DATES: Comments must be received on or before June 2, 1980, and reply comments on or before August 1, 1980.

ADDRESSES: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Susan Greene, Office of Plans and Policy, (202) 653-5940.

SUPPLEMENTARY INFORMATION:

Adopted: December 19, 1979.

Released: December 28, 1979.

By the Commission: Commissioners Ferris, Chairman; Fogarty and Brown issuing separate statements; Commissioner Quello concurring and issuing a statement; Commissioner Washburn concurring in part and dissenting in part and issuing statement; Commissioner Jones concurring in the result.

I. Introduction. 1. The Federal Communications Commission is initiating this rulemaking proceeding because of our long-standing concern for improved television service for children. In this *Notice*, we invite public comment on the full range of policies available to achieve improved television programming for children. These options range from rescinding our existing children's television programming guidelines to adopting interim programming rules. We also invite suggestions about any other policies that may be available to us. In addition, we invite public comment on the factual record we have compiled to date. We hope and expect that parties will assess the accuracy and thoroughness of that record, as well as submit any additional facts in their possession that may bear on the issues.

2. We have, to this point, focused on the availability of educational and age-specific programming for children and the scheduling of these programs. This proceeding will also provide the public with an opportunity to comment upon whether policies to increase the amount of this type of children's programming scheduled on weekdays will adversely affect the quality of that programming and whether the fundamental assumptions underlying our present policies remain accurate.

3. In view of the wide range of options available to us, we have not adopted any preferred approach at this time. We propose to adopt at the conclusion of this proceeding one or more of the options outline in this *Notice* or provided to us by commenting parties.¹ In the course of this proceeding, we also plan to hold panel discussions so that we may become more fully informed on the scope and consequences of our proposed options.

4. In 1971 we established this proceeding with a *First Notice of Inquiry* to explore and define the fundamental issues in children's television.² In 1974 we issued our *Children's Television Report and Policy Statement*, which established policies and guidelines for children's programming and advertising and left to industry self-regulation the manner of coming into compliance.³ In 1978 we re-established our Children's Television Task Force and issued a *Second Notice of Inquiry* to determine what changes had taken place since 1974.⁴ The Task Force staff was asked to evaluate the effectiveness of broadcast industry self-regulation in improving children's programming and advertising practices, and, in addition, to investigate the overall effect of new technologies and alternative sources of programming on the availability of children's programming.

5. At our meeting on October 30, 1979, the Children's Television Task Force presented its report containing findings, conclusions, and policy recommendations.⁵ The Task Force found that broadcasters had not complied with the programming guidelines of the *Policy Statement* but had, in general, complied with the

advertising guidelines.⁶ In view of our staff's findings of general industry compliance with the FCC's current advertising guidelines, and their recommendation that we not at this time pursue any changes in these guidelines, this notice addresses only the issue of television programming for children.⁷

6. Commercial television licensees have been on notice since the issuance of our *Policy Statement* in 1974 that they have a duty as public trustees "to develop and present programming which will serve the unique needs of the child audience."⁸ The Task Force report concluded that industry self-regulation during the last five years has not been effective in fully achieving the changes in amount, scheduling, and age specificity of commercial television's children's programming we stated that we expected to follow from our 1974 *Policy Statement*. Further, the report concluded that, under the existing market structure, the economic incentives facing commercial television broadcasters make it unlikely that they will voluntarily meet the policy guidelines without quantifying the Commission's expectations. The staff report proposed a range of policy options available to us and recommended certain of these options.

7. The report of our staff is a seminal document in this proceeding. Therefore, we specifically seek public comment on its analyses, findings, and conclusions.

⁶The advertising guidelines established in the 1974 *Policy Statement* addressed the following: 1) non-program material time standards; 2) use of separation techniques between program content and commercial messages; 3) elimination of host-selling and tie-in practices. 50 FCC 2d at 6 (paras. 44, 49, 52, 57). For discussion of broadcaster compliance, see *Report*, Vol. 2, pp. 47-60.

⁷The Task Force found that information concerning children's programs provided on license renewal forms was inadequate to measure licensees' performance, and suggested modification of the questions on the form. *Report*, Vol. 2, Chapter Five, pp. 78-84. This proposal is incorporated in Option 2, *infra*. The staff also found support in the social science literature for the argument that the needs and interests of children are sufficiently different from those of adults to require specific ascertainment by licensees. See *Report*, Vol. 5, Wartella, "Children and Television: The Development of the Child's Understanding of the Media," pp. 2-10. Broadcast licensees already have some obligations to ascertain the needs and interests of children. Further consideration of the ascertainment issue is beyond the scope of this proceeding.

The Task Force also made recommendations concerning aspects of two direct subsidy programs by the Federal government for children's television: the funding the public broadcasting and the use of children's programs produced with funding from the Emergency School Aid Act. See *Report*, Vol. 1, p. 72 and Vol. 5, Rudick, "Children's Television: Alternative Media and Technologies", pp. 31-34. These recommendations were addressed directly to Congress and lie outside the scope of the Commission's authority.

⁸50 FCC 2d at 5.

¹If we determine, however, to adopt a mandatory programming rule (see Option 3 *infra*) we will issue a *Further Notice of Proposed Rulemaking* to present the specific rule for further comment.

²28 FCC 2d 368 (1971).

³50 FCC 2d 1 (1974).

⁴68 FCC 2d 1344 (1978).

⁵Television Programming for Children: A Report of the Children's Television Task Force, released November 2, 1979 (hereafter, *Report*).

We also encourage parties to submit factual data that will support any alternative analyses of the history of industry compliance with our 1974 *Policy Statement*.

II. Historical Background. 8. The issue of children's television has been before the Commission for almost twenty years. In the 1960 *Report and Policy Re: En Banc Programming* we specified children as one of the 14 groups whose programming needs licensees must reflect to meet their public-interest obligations to their respective communities.⁹

9. In 1970, Action for Children's Television (ACT) petitioned the Commission with a proposal for rulemaking that would include a rule to require minimum amounts of programming per week for children, divided into age-specific categories. We responded in 1971 with our *First Notice of Inquiry* to explore and define the fundamental issues in children's television.¹⁰

10. We concluded this inquiry in 1974 with the release of our *Policy Statement*, reemphasizing that broadcasters have a "special obligation" to serve children as a "substantial and important" community group.¹¹ We established policies and guidelines for children's programming and advertising and left to industry self-regulation the manner of coming into compliance. Specifically, we expected to see substantial improvements in the overall amount of programming specifically designed for children on commercial television; the scheduling of those programs throughout the week, not just on weekends; the development and production of more educational and informational programs; and the presentation of programs directed at specific age groups of children, including preschoolers. We also stated that we expected the industry to adhere to *NAB Code* provisions concerning the amount of time devoted to advertising during children's programs, to eliminate host selling and product tie-ins, and to use separation devices between programs and commercials. Full compliance with the *Policy Statement* by all commercial television licensees was expected by January 1, 1976.

11. In adopting the *Policy Statement* the Commission sought compliance through industry voluntary self-regulation rather than proceeding by rule. A major influence upon the Commission's decision was the representation by the industry that it

could meet these guidelines on children's television by self-regulation. The Commission left the docket open to facilitate continued review of industry efforts.

12. In *ACT v. FCC*, the Court of Appeals upheld the Commission's decision to proceed by policy statement rather than by rule as was requested by ACT.¹² The Court indicated, however, that the effectiveness of industry self-regulation would depend, in part, on "the extent to which the Commission and the public monitor the level of actual performance."¹³ In upholding the *Policy Statement* the Court also stated that "we believe that the Commission may well have adequate authority to regulate in this area, and even perhaps to the extent proposed by ACT."¹⁴

13. The Commission in July, 1978, adopted a *Second Notice of Inquiry* to evaluate the effectiveness of industry compliance with the 1974 *Policy Statement* and to assess possible alternatives to its 1974 approach, if needed. The report of the Children's Television Task Force, released November 2, 1979, presented the staff's analysis of commercial broadcasters' compliance with the *Policy Statement's* guidelines, and of the current and potential market for children's television programming.

III. Compliance with the 1974 *Policy Statement*. 14. The 1974 *Policy Statement* asked licensees to do the following: (1) "make a meaningful effort" in the area of overall amount of programming for children; (2) air "a reasonable amount" of programming for children designed to educate and inform, and not simply to entertain; (3) air informational programming separately targeted for both preschool children and school-age children; and (4) air programming for children scheduled during weekdays as well as on weekends.¹⁵ The following is a summary

¹² 564 F. 2d 458 (D.C. Cir. 1977).

¹³ *Id.* at 481.

¹⁴ *Id.* at 480.

¹⁵ 50 FCC 2d at 6-8 (1974).

¹⁶ Shortly after the issuance of the *Policy Statement*, we adopted the following definition of a children's television program: Program designed for children: program originally produced and broadcast primarily for a child audience twelve years old and under. This does not include programs originally produced for a general or adult audience which may nevertheless be significantly viewed by children.

Memorandum Opinion and Order, 58 FCC 2d 1169 (1975). The staff studies have indicated that our definition of children's television programming may not be the only operational definition used by broadcasters in determining children's programs. See *Report*, Vol. 2, pp. 6-17. Consequently the *Report* has utilized informal industry characterizations of children's programs as well as the FCC definition in determining broadcaster compliance with the *Policy Statement*. See *Report*,

of the staff's findings on commercial licensee compliance with the programming guidelines of the 1974 *Policy Statement*, based on detailed studies of changes in the amount and scheduling of various kinds of programming between 1973-74 and 1977-78.¹⁶ While we are aware that many licensees have made efforts to provide higher-quality programming for children during this time period, the staff report does not examine the quality of programming. The Task Force's report considered solely compliance with the 1974 *Policy Statement*, which addressed the amount, scheduling, and type of children's programming available.

15. *Overall Amount of Children's Programming*. Our staff's report found that the average amount of time devoted to children's programs, both entertainment and non-entertainment, on a per-station basis increased from 10.5 hours per week in 1973-74 to 11.3 hours per week in 1977-78—an increase of less than one hour per week.¹⁷ This change was entirely accounted for by a significant increase in children's programming on independent stations (14.3 hours in 1977-78 as compared with 10.6 hours in 1973-74). No increase occurred in the amount of time devoted to children's programs by network affiliates (10.4 hours per network affiliate in 1973-74 as compared with 10.4 hours in 1977-78).¹⁸

16. *Programming Designed to Educate and Inform Children*. Our staff's report found that no significant increase has occurred in the number of educational and instructional programs for children aired during the composite weeks (network-originated: 1973-74, 3, 1977-78, 3; syndicated: 1973-74, 11; 1977-78, 12).¹⁹ The average amount of time devoted to educational children's programs on a per-station basis remained essentially the same for the 1977-78 broadcast season compared with the 1973-74 broadcast season (network-originated: 1973-74, 2.77 hours; 1977-78, 2.76 hours; syndicated: 1973-74, 1.42 hours; 1977-78, 1.14 hours).²⁰

17. *Age-Specific Programming*. The 1974 *Policy Statement* stated that commercial television licensees have a responsibility to air more programming

Vol. 4, pp. 13-21. The results of the staff analysis of broadcaster compliance with the *Policy Statement* are essentially the same whether the FCC definition or a broader industry-created designation of children's programs is used. Compare *Report*, Vol. 4, pp. 27-102 and pp. 103-168; See also Vol. 4, pp. 167-172.

¹⁷ See *Report*, Vol. 4, p. 45.

¹⁸ *Id.*, Vol. 4, pp. 49 and 53. For an analysis of children's programs by source (local, network, or syndicated), see Vol. 4, p. 39.

¹⁹ *Id.*, Vol. 3, p. 6.

²⁰ *Id.*, Vol. 3, pp. 11-12.

⁹ 44 FCC 2302, 2314 (1960).

¹⁰ 28 FCC 2d 368 (1971).

¹¹ 50 FCC 2d 1, 5 (1974).

directed toward both the preschool and school-age audiences. Despite our statement that licensees should make a "meaningful effort" to air age-specific programs, the staff found that few licensees have made a greater effort to do so. Parties filing comments indicated a general absence of preschool programming on network-affiliated stations, with the exception of those carrying CBS' *Captain Kangaroo*. Essentially the same number of programs was broadcast for the preschool audience by network affiliates during 1977-78 as was broadcast at the time of the 1974 *Policy Statement*. Some independent stations in the top 50 markets, however, did increase their preschool programming.²¹

18. *Scheduling of Children's Programs.* The *Policy Statement* addressed scheduling of children's programs because at that time programs for children were shown primarily on weekends. Our staff found that the proportion of children's programs scheduled on the weekend decreased somewhat between 1973-74 and 1977-78, from 53.7 percent to 47.3 percent, but nearly half of children's programs are still shown on weekends, when only 8 percent of children's television viewing occurs.

19. The staff found that in 1977-78, 60 percent of children's programs on network affiliates were shown on weekends. Network affiliates continue to air over 50 percent of their children's programs on Saturdays alone. In many markets there are still no independent commercial television outlets. Consequently, in those markets viewers depend solely on network affiliates, who air the majority of their children's programming on weekends.

20. The Task Force report has provided our primary source of evidence concerning broadcasters' compliance with the *Policy Statement*. We solicit public comment on the accuracy and adequacy of the information and analysis provided in that report.

IV. *Television and the Child Audience.* 21. The staff's report also analyzed broadcasters' compliance with our programming guidelines in the context of children's cognitive abilities, the market for children's television programming, and recent technological developments.

22. *Benefits to Children.* The Report found that television has an opportunity to provide considerable educational benefits to children. Most children

watch many hours of television a day.²² In addition children have been shown to acquire attitudes and behavior, as well as cognitive skills, from watching television.²³ Thus, both cultural and informational programming may have a large influence on children. Preschool children in particular may benefit from educational programming since, unlike adults and older children, they do not read and have access to relatively few alternative sources of information.²⁴

23. The Task Force reported that several features both of children themselves and of the television industry cause commercial television broadcasters to serve children differently and less well than any other significant audience group. Based on differences in cognitive development, children form at least two distinct audiences, preschoolers (ages two to five) and school-age children (ages six to twelve).²⁵ These groups have sufficiently different educational needs that nonentertainment programming for children must be directed at one group or the other to be fully effective.²⁶

24. *The Market for Children's Programs.* In the advertiser-supported broadcasting system programming is paid for not by viewers but by advertisers, who desire the largest possible audience of potential buyers for their advertised products. The report asserts that children, particularly younger children, have an influence on decisions to buy only relatively few advertised products. Purchases of products advertised to children fall into a very few categories and constitute only a small fraction of household budgets. Thus, though many firms do advertise to children, the amount of money spent on children's advertising appears to be small relative to the amount spent advertising to adults. Broadcasters have little incentive to present programming designed to attract children and even less incentive to

program for specific subcategories of children.²⁷

25. In markets with few television outlets broadcasters will attempt to maximize their audience by presenting programming appealing to the largest number of people. In markets with many television outlets, some stations will find it more profitable to program for the tastes of smaller groups, including children, than to compete for and further divide the broad general audience. Thus television broadcasters are likely to present more programming, and perhaps more diverse programming, for children in markets with many outlets than in markets with few outlets. Independent stations, which often program for audiences not served by network affiliates, are likely to present more children's programming than network affiliates.

26. Our staff has concluded based on the above analysis that the small numbers of children and their limited appeal to advertisers, combined with the small number of outlets in most markets, create incentives for the commercial television system to neglect the specific needs of the child audience. The report asserts that, as a consequence of the incentives facing television broadcasters, the amount of children's programming on advertiser-supported stations will be less than the amount of programming that would be presented for an adult audience of similar size and viewing habits. The children's programming that is broadcast will be designed to attract the largest child audience rather than specific age subgroups. Because programming designed for specific age groups will probably attract relatively small numbers of children, programming of that type is likely to be kept to a minimum. In addition, children's programming usually will be scheduled for time periods in which no other audience groups are available in large numbers. Even when located in these marginal time periods, children's programs will be subject to preemption by programming that attracts larger general audiences, such as sports events. Broadcasters will also be less willing to spend money to produce children's programming than adult programming.²⁸

27. *New Technologies and Children's Programming.* The staff report suggests

²¹ *Id.*, Vol. 1, pp. 30-31.

²² Additional data that would have allowed the staff to substantiate their analyses of the relationship between the advertising market and the airing of programs for children were available only at prohibitive cost. The staff plans, however, to continue research on these issues during the coming months.

²³ A. C. Nielsen, *Child and Teenage Viewing* (1978), p. 2.

²⁴ See Report, Vol. 1, pp. 19-20, and Vol. 5, Wartella, pp. 31-34.

²⁵ There are, of course, television programs created for family or adult audiences that also provide educational benefits to children. Nonetheless, the educational benefits to children of family or adult programming do not, according to the 1974 *Policy Statement*, fully satisfy broadcasters' special obligations to serve children. In that *Statement* we have recognized children as a "unique audience" and have stated that because of their immaturity and their special needs, [they] require programming designed specifically for them." 50 FCC 2d at 5.

²⁶ See 50 FCC 2d at 7-8. See also Report, Vol. 5, Wartella pp. 2-12.

²⁷ *Id.*, Vol. 1, pp. 23-26.

²⁸ See comments of *Rampier Room Enterprises*, Docket 19142 (submitted February 12, 1979), pp. 17-19.

that parents appear to desire more television programming for their children, and in particular more educational programming, than is available on advertiser-supported television stations. Cable and subscription television also provide evidence that parents desire children's educational programming strongly enough to pay for it, either directly or indirectly, when it is available. Cable television suppliers offer three different program packages for children, one of which is a full-time channel of children's programming. The material offered on cable has a higher educational content than that presented by advertiser-supported broadcasters.²⁹ In addition, four of the six operating subscription television (STV) stations offer programming for children.³⁰ This evidence from cable and STV suggests that children's programming provided by advertiser-supported stations falls far short of viewer demand. We invite comment on the staff's interpretation of the evidence concerning demand for children's programming.

28. *Overall compliance.* On the basis of the staff's analysis it appears that, whether the FCC definition of children's programs or a broader industry categorization of children's programs is used, the commercial television industry as a whole has not, after five years of notice under our *Policy Statement*, complied fully with our existing programming guidelines. The availability of programming for other audiences that also attracts children does not satisfy the Commission's requirement that television licensees provide educational and age-specific programming specifically designed for children, scheduled throughout the broadcast week. On this basis alone, we may consider taking further action, assuming the accuracy of the staff's analysis.

29. The staff's conclusion is reinforced by its analysis that the market incentives under the current structure of commercial broadcasting appear to run counter to the programming policies and guidelines created in the *Policy Statement*. The Task Force report suggests that without formal regulations or processing guidelines only increases in the number of television stations or other video programming outlets in a market will foster any further increases in the amount or diversity of children's

programming. The Commission invites comment on the staff's analysis and conclusions concerning broadcaster compliance with the *Policy Statement* and the staff's overall analysis of the market's behavior and its effects on the availability of children's television.

V. *Policy Options.* 30. This section sets forth a range of options for FCC action with regard to television programming for children. We propose to adopt one of these options or other options submitted by parties after consideration of the complete record submitted in response to this *Notice*. Accordingly, we encourage comments on the options presented below.³¹ We do not, however, foreclose the possibility that other equally viable options will emerge from public comments, and if so, we will fully consider them.

31. *Option 1. Rescind the Policy Statement and rely on other program sources for children's programming.* If the staff analysis is correct, the economic incentives of the advertiser-supported broadcasting system do not encourage the provision of specialized programming for children. We may, therefore, choose to rescind the *Policy Statement* and find that commercial television broadcasters no longer have any specific obligation to serve the child audience. Instead we would rely on other program sources, such as public broadcasting, federally-funded children's programs, cable television, subscription television, or any combination of other program sources to meet the demand for more age-specific educational programming for children. We recognize, however, that public broadcasting has been hampered by the disadvantages that UHF stations have faced in the past, and that cable and subscription television are not available in all communities. These alternatives offer a potential solution only in the long run. We invite comment on whether we should rescind the *Policy Statement* and rely solely on other program sources to meet the demand for educational programming.

32. *Option 2. Maintain or Modify the Policy Statement.* The staff report has concluded that five years of experience with broadcaster self-regulation under the *Policy Statement* indicates that very few changes in children's programming practices have occurred. In view of our concerns about the constitutional limits to our authority we could still conclude

that a reaffirmed FCC *Policy Statement* remains the only viable policy option, in spite of the staff's analysis of the economic incentives of commercial broadcasters.

33. If we choose to maintain our *Policy Statement*, we might, in addition, modify the television license renewal form in order to obtain more comprehensive and precise information about licensee programming practices for children. For example, we could ask television licensees to provide a complete listing of programming that meets our definition of children's programs as part of their annual programming report.³² We could also require that television licensees classify this programming according to intended audience (preschool or school-age), and report the amount of time devoted to children's programs and the scheduling of these programs. We invite comments on the appropriateness of maintaining the *Policy Statement* with or without the alternative of requiring licensees to provide additional information about the type, amount, and scheduling of their children's programs.

34. Alternatively, the staff's analysis that television broadcasters have little incentive to produce educational programs for children may lead us to reevaluate our *Policy Statement*. We could, for example, reaffirm the obligation of television broadcasters to provide more programs for children but rescind our policies requiring educational and age-specific programming. We could also maintain the existing standards of the *Policy Statement* but apply these standards to the availability of programming in the market rather than maintain an individual licensee obligation. We solicit comment on these alternatives.

35. *Option 3. Mandatory Programming Rules.* The staff has recommended that the Commission consider adopting an interim rule concerning the amount, scheduling, and type of programming for children. The rule suggested by the Task Force would require that all commercial television broadcasters provide 5 hours per week of educational programming for preschool children (ages two to five) and 2½ hours per week of educational programming for school-age children (ages six to twelve). The rule would further require that this programming be scheduled between 8:00 a.m. and 8:00 p.m., Monday through Friday. The Commission invites comment on this proposal as well as suggestions for alternatives and reasons for proposing them.

²⁹ See Report, Vol. 1, pp. 41-42 and Vol. 5, Rudick, pp. 57-63.

³⁰ Two of these stations are located in the Los Angeles area where, due to the large number of commercial broadcast stations, more programming is already available for children than is available in most markets.

³¹ Commenting parties should note that some of the options would be mutually exclusive in their implementation. The option of encouraging structural changes in the video programming industry, however, can be implemented in conjunction with any of the other options described in this section.

³² See Annual Reporting Form No. 303-A.

36. We have always recognized that educational programming can also be entertaining.³³ Nonetheless, the question of how broadly we define educational programming is an essential element of this discussion. In our *Policy Statement* we broadly characterize educational programming:

There are many imaginative and exciting ways in which the medium can be used to further a child's understanding of a wide range of areas: history, science, literature, the environment, drama, music, fine arts, human relations, other cultures and languages, and basic skills such as reading and mathematics which are crucial to a child's development.³⁴

It is our intent to continue to define educational programming in a broad manner and to give deference to licensees' own classifications of their children's programs. We invite comment on the appropriateness of our definition.

37. We realize that television as a mass medium always has the potential to reach broad audiences. Nonetheless, we stated in 1974 that we believe that programming can be designed for specific age groups of children. If this rule option were adopted, we would propose to continue to define preschool programming as programming originally produced and broadcast primarily for a child audience ages two to five. We would propose to continue to define school-age programming as programming originally produced and broadcast primarily for a child audience ages six to twelve. We invite comment on the appropriateness of these definitions.

38. The proposed rule might apply to all licensees equally or only to some classes of licensees, such as network affiliates or VHF stations. We solicit comment on the appropriateness of treating various classes of licensees differently, and on the reasonableness of different programming standards for network affiliates and independents or for VHF and UHF stations.

39. The staff report asserts that with a large number of video outlets in each in each market sufficient diversity in programming would occur to make it likely that educational programming for children be provided without FCC intervention. Accordingly, we intend that, if adopted, the mandatory programming rule would be an interim measure and that the rule would contain a "sunset" clause setting forth conditions under which it would be rescinded. Criteria for rescinding the rule might include the expiration of a given time period or some structural condition such as national cable penetration reaching some specified

level. Alternatively, the criteria might be applied on a market-by-market basis and might include the number of over-the-air stations in the market, cable penetration in the market, percentage of homes in the market passed by cable, or some combination of these.³⁵

Widespread and low-cost availability of videocassette and videodisc equipment and programming might also make mandatory advertiser-supported broadcasting of children's programs unnecessary. We invite comments on the appropriateness of a "sunset" provision for rescinding the rule and the criteria for determining when this provision should take effect.

40. *Option 4. Children's Programming License Renewal Processing Guidelines.* The Commission could also achieve the objectives outlined in the staff report through the adoption of a processing guideline. Currently, the FCC staff is given delegated authority to process license renewals routinely and to make findings that they serve the public interest only where certain specific standards for local, informational, and non-entertainment programs are met by the broadcast licensee during the past license term. The current minimum programming processing guideline for television licensees reads as follows:

Programming: *Programming content and ascertainment of community needs.* . . . [Staff may not grant any] Commercial TV proposals (except those made by UHF stations not affiliated with major networks) which project for the hours 6:00 a.m. to 12:00 midnight less than the indicated percentages in one or more of the following categories: five percent total local programming, five percent informational (news plus public affairs) programming, ten percent total non-entertainment programming.³⁶

41. A possible processing guideline for children's programming could incorporate the same provisions as the proposed rule (see Option 3 *supra*) or different standards. Under a processing guideline, the staff would review each television license renewal application to determine whether it conforms to the standards established for educational children's programming.

42. If a television licensee proposed programming for the next three-year license term that fell below the Commission's guidelines, the staff would send the renewal application to the Commission for full review to determine if the renewal should be granted. If the television licensee aired, during the last license period, programming that fell

below the Commission's guidelines, the staff could grant the renewal if the licensee submitted a satisfactory explanation. If the staff determined that the explanation was unsatisfactory, the staff would send the application to the Commission for full review.

43. An additional standard for investigation of renewal applications in our local or news and public affairs processing guidelines is "promise v. performance". If a licensee promised more than the FCC's minimum guidelines and has, during the past license period, substantially deviated from these program percentages, the staff may request justification or additional information on an applicant's programming proposal before granting the renewal. We invite comment on whether this standard should be applied to an applicant's past children's programming proposals.

44. The staff defers to licensee discretion in categorization of programming. If, however, a petition-to-deny is filed, the staff must determine whether the licensee has met the program guidelines. We invite comment on how the staff should determine whether the licensee has met the age-specific and educational standards of a processing guideline if a petition-to-deny challenging a licensee's programming during the last renewal term is filed.

45. A processing guideline would allow the Commission more flexibility in special cases than a mandatory rule. This option might be used in conjunction with a reaffirmed *Policy Statement* and modified license renewal form (see Option 2 *supra*).

46. *Option 5. Increasing the Number of Video Outlets.* Our staff's report concluded that in the long run increases in the number of advertiser-supported video outlets per market and more television programming paid for by viewers would provide the most promising means of increasing the amount and diversity of programming serving children. In addition, the fact that more broadcast outlets are competing for the same audience may affect broadcasters' programming strategies, making it more profitable to present specialized programming strongly preferred by a relatively small audience than to try to compete for the mass audience. While the staff believes that increasing the number of outlets per market should result in a better match of programming with viewers' preferences, it provides no guarantee that any specific type of programming, such as educational programming for preschoolers, will be provided.

47. Before considering specific options for increasing the number of outlets, the

³³ The rule might even be held inapplicable from the outset in certain markets, if they met the "sunset" criteria.

³⁶ 47 C.F.R. § 0.281(a)(8)(i).

³³ 50 FCC 2d at 7.

³⁴ *Id.*

Commission invites comment on the staff's proposition that increasing the number of outlets per market will improve the availability of educational programming for children. We also request suggestions and opinions on a general strategy that the Commission might undertake to achieve structural changes that increase the number of outlets per market, if it were to accept the staff's premise. One approach might take the form of a new policy statement or doctrine directed to promoting structural alternatives to advertiser-supported television rather than to maintaining our 1974 *Policy Statement*, which promotes educational children's programming on commercial television stations.

48. Increasing the number of advertiser-supported outlets could most easily be accomplished by making UHF stations more comparable with VHF stations. Congress has required the Commission to "devise a plan for UHF stations to reach comparability with VHF in as short a time as practicable."³⁷ We solicit opinion concerning the likely effect of an increase in the number of UHF stations on children's programming.³⁸

49. Wider introduction of the various pay television options would not only increase the number of outlets but would allow viewers to express their preferences by purchasing the kind of programming they want. Possible increases in the availability of pay television options may come from expanded cable and subscription television services, more widespread use of new technologies such as videocassette and videodisc, and possibly direct satellite-to-home broadcasting.

50. Cable television, over-the-air subscription television (STV), and direct satellite-to-home broadcasting may offer, in the long run, a greater likelihood than advertiser-supported broadcasting of meeting consumer preferences because consumers have the option of paying for the kind of programming they want. In addition, cable television overcomes the problem of channel scarcity by offering, in newer systems, 30 or more channels.

51. Although these for-pay programming services are increasing in

availability, in the short term they will not be available to the majority of television households. Even in the long term it is likely that only advertiser-supported over-the-air broadcasting will be available to all television households. We invite comment on the desirability of depending upon technologies that may not be available to all households to provide programming for children. We also invite comment on the extent to which reduction in the cost of cable, STV, or possibly direct satellite-to-home broadcasting may affect the availability of children's programming.

52. With videocassettes and videodiscs viewers may eventually be able to buy almost any kind of programming they want and to view whenever they want. Cassette and disc libraries equipped with viewing equipment may make this programming widely available to the public at large. The Commission invites comment on whether videocassettes and videodiscs by themselves or in combination with other forms of pay television are practical alternatives to over-the-air broadcasting, and whether the availability of these alternative sources of programming should affect our policies for advertiser supported broadcasting.

VI. Legal Authority

53. Although some courts have indicated concern with mandatory programming rules, our staff finds based upon its constitutional and statutory analysis that the Commission could adopt any of the proposed options including the option providing for a mandatory programming rule.³⁹ We invite comment on this analysis.

54. In particular, the Commission invites comment on our constitutional and statutory basis for a mandatory programming rule, including requiring specific categories of programming, requiring a minimum number of hours of programming of a given category, and requiring that it be scheduled within a given time period. We also invite comment on the legality of provisions in a rule that might permit classes of licensees, such as network affiliates and independent stations or UHF and VHF stations, to be treated differently. We also seek comment on the legal distinctions between a rule and a processing guideline such as that used for local and informational programming by television stations, and the permissible degree of specificity in a processing guideline.

³⁹ See *Report*, Vol. 1, Appendix A.

VII. Conclusion

55. We believe that television programming has an enormous potential for enriching the lives of children. This potential is still largely unrealized. We expect that, acting within the limits of our authority, we can adopt one or more policies that will result in better service for children.

56. Authority for this proposed rulemaking is contained in Sections 1, 4 (i) and (j), 303 (g) and (r), and 403 of the Communications Act of 1934, as amended (47 U.S.C. 1.). Pursuant to applicable procedures set forth in §§ 1.415 and 1.46 of the Commission's rules, interested parties may file comments on or before June 2, 1980, and reply comments on or before August 1, 1981. All relevant and timely comments will be considered by the Commission before final action is taken in this proceeding. In reaching its determination in this proceeding, the Commission may also take into account other relevant material before it, provided the nature and source of that material are identified in the public docket and made available for public comment.

57. To file formally in this proceeding participants must file an original and 5 copies of all comments, reply comments and supporting documents. If participants want each Commissioner to receive a personal copy of their comments an original plus 11 copies must be filed. To participate informally in this proceeding participants may submit one copy of their comments. Docket Number 19142 should be specified in the heading. Comments and reply comments should be sent to Office of the Secretary, Federal Communications Commission, Washington, D.C. 20554. Comments and reply comments will be available for public inspection during regular business hours in the Dockets Reference Room (Room 239) of the Federal Communications Commission, 1919 M Street, N.W., Washington, D.C. 20554. For further information on this proceeding, contact Susan C. Greene, Director, Children's Television Task Force, 202/653-5940.

Federal Communications Commission.*
William Tricarico,
Secretary.
December 19, 1979.

Separate Statement of Charles D. Ferris,
Chairman.

Re: Children's Television Programming
Rulemaking Notice.

* See attached statements by Chairman Ferris, Commissioners Quello, Washburn, Fogarty, Brown and Jones.

³⁷ Appropriations for Departments of State, Justice, Commerce, Judiciary and related agencies. Public Law No. 95-431, 92 Stat 1040, (1978).

³⁸ For ongoing proceedings to assist UHF stations in attaining comparability with VHF stations see *Notice of Inquiry in Docket No. 78-391*, 70 FCC 2d 1720 (1979); *Notice of Inquiry in Docket No. 79-392*, 70 FCC 2d 114 (1979); *Report and Order in Docket No. 21010*, 69 FCC 2d 1866 (1978); *Memorandum Opinion and Order in Docket 21010*, 70 FCC 2d 1176 (1979).

I hope that the notice the FCC is issuing today is perceived in its correct light. We are not, by this action, endorsing any option put forward in our Children's Task Force's Report as a preferred means of achieving the Commission's goals.

We are putting out for public comment five options for further FCC action in the area of children's television programming. We are also asking for comments on the methodology and findings of our Children's Television Task Force Report, which measured commercial broadcaster compliance with our last actions in this field.

We are proposing as broad a range of options as we can set forth, with no preferred option. I personally have a very open mind on this subject. I would only turn to the option of FCC imposition of a requirement that each television station air a specific amount of weekday programming for preschoolers and school age children with very great reluctance. I would do so only if I found after we reviewed all comments and studies submitted in this docket that every possible alternative had to be discarded as inappropriate.

It is for this reason that I have proposed that we provide the greatest possible window in this proceeding for submission of careful alternative studies and for constructive proposals short of mandatory programming rules by both the television industry and by the public. I have also proposed that we underline our intention not to rush to judgment by announcing in the notice we issue today that if we do, at the close of this comment period, find that we wish to move forward on the mandatory rule option, we will issue a *Further Notice of Proposed Rulemaking* setting forth the specific language of such a rule to allow an additional comment period.

The Commission's adoption of these two steps, in addition to the care we have taken in broadly drafting our notice, should lay to rest any question that we as an agency are approaching our job in as fair a manner as possible.

We have, I believe, benefitted from a diversity of views provided to us informally during the past 45 days. I think that it is now time for us to get formal views on the array of options before us, and to put the best evidence that can be provided to us into the record in a rulemaking context. We can then begin to move towards a conclusion to this docket.

While we want to be fair to all concerned, we do here deal with a very sensitive area of concern for all of us—the millions of hours of television that our children watch. I hope that broadcasters as well as viewers will take this opportunity to reassess what has been done in this area during recent years and to determine whether additional initiatives, whether regulatory or industry-initiated, are necessary and possible.

Perhaps we have gone as far as we can go as a nation, or as a government, in insuring that commercial television is able to educate and inform our children. Perhaps, given the other things we ask of that medium, our expectations in 1974 were too great. Perhaps we need to look elsewhere for ways to provide children and parents with access to a

greater diversity of program types during weekday daytime and early evening time periods. Or perhaps there are still new proposals that will be forthcoming from the television industry.

I do not know the answers, but I hope we are now on our way to getting them.

Concurring Statement of FCC Commissioner James H. Quello

In Re: Television Programming for Children

I concur in the issuance of this Notice of Proposed Rulemaking for the sole reason that it invites comments on the merits of the staff Task Force Report, conclusions, and recommendations, even though I believe the issuance of the proposed rulemaking at this point in the proceeding is premature and predicated on an incomplete record.

Last October the Commission's Children's Television Task Force released its report which relied almost exclusively on its own research and commissioned studies for the conclusions reached. Clearly the report should have been subjected to detailed analysis and challenge by interested parties and the totality of comments should have been considered by the Commission in determining not *when*, but *whether*, a rulemaking should issue based on such record. Instead, the Commission instructed the staff to prepare a Notice of Proposed Rulemaking reflecting the options discussed by the Task Force and developed without the benefit of adversarial comments by interested parties. The public was then given a mere 45 days in which to provide informal comments on the report.

The Notice of Proposed Rulemaking adopted today contains no reference to comments filed during the 45 day period, and is predicated on the unchallenged findings and conclusions of the Task Force staff. Procedurally we seem to have placed the cart before the horse in our unilateral determination to "... adopt at the conclusion of this proceeding one or more of the options outlined in this Notice or provided to us by commenting parties," as we stated in paragraph three of the NPRM. I remain extremely concerned that interested parties have the opportunity to comment—and, indeed, challenge—the staff Task Force Report, conclusions and recommendations. I continue to believe it mandatory that the Commission consider all comments relative to the merits of the Task Force Study and findings *before* it makes any judgment as to remedial measures. In short, let us know all aspects of the problem, if, indeed, a problem does exist, before we strike a line and calculate the answer.

I find a further compelling reason for proceeding with deliberation in this matter. I am informed that the National Association of Broadcasters through its Children's Television Committee, would prepare a *full and complete* analysis of the FCC Task Force Study and would examine the possibility of various modes of response to the ongoing challenge of meeting the needs of children. I am particularly interested in any specific and concrete suggestions the television broadcast industry entities may have with respect to responding to the need for children's programming. Such proposals should be

evaluated *before* this Commission makes a decision on the need for additional programming requirements.

I wish to emphasize that I have come to no conclusions with respect to the adequacy of children's television programming and I shall continue to keep an open mind until the record in this proceeding has been fully developed and considered by the Commission. In the interim, I look forward to the panel discussions that we have promised in the NPRM.

December 19, 1979.

Statement of Commissioner Abbott Washburn, Concurring in Part and Dissenting in Part, on Notice of Proposed Rulemaking, Children's Television Programming Docket No. 19142

Summary

Except for the mandatory hours option (whether by rule or by processing guidelines), to which I must dissent, I am concurring in, rather than approving, the content of this Notice of Proposed Rulemaking. I do so because it deals with only a part of American television's effort to serve children and because of inadequacies in the Task Force's studies underpinning some of its conclusions.¹

In addition, the Task Force Report overlooks significant developments which have taken place during the past five years under the stimulus of the Commission's 1974 Policy Statement.

Mandatory Hours Option

I believe it fair to say that no other Commissioner during the past five years has taken greater interest in, or devoted more time to, the subject of children and television than I. There *has* been progress. But further improvements in programming and scheduling are needed. We all recognize this. If I believed that the mandating by the Government of certain amounts of educational programs each week would be effective, I would not hesitate to vote to have it put out for public comment. But the record so far in this proceeding has not convinced me that such a course would be productive of the desired results. Rather, it would be counterproductive and disruptive. Quality can neither be regulated nor legislated. *More* is not *better*. The figure of 5 hours per week for pre-schoolers and 2½ for grade-schoolers are purely arbitrary, unsupported by any rationale for their selection as opposed to other figure either higher or lower.

In addition, the First Amendment and Section 326 implications would lead us

¹ As an example, there is little or no hard evidence supporting the finding that parents, in any significant numbers, are willing to pay extra for additional educational programs, yet this finding is advanced as proof of the existence of "unsatisfied demand" for such programming. The fact that some cable-TV subscribers pay extra to get a service like Home Box Office does not justify the staff's conclusion that subscribers would be willing to pay extra solely for children's television. None of the pay-TV services today has a children's channel sold separately from the rest of its programming. Consumers subscribe to pay-TV primarily to receive movies and sports without the interruption of commercial announcements.

straight into a legal morass of several years' duration, deflecting funds and attention away from the task of improving television for children. Treating children as a "unique audience" and mandating a specific number of hours Monday through Friday designed especially for them between 8 a.m. and 8 p.m., if eventually upheld in the courts, would set the stage for other groups to come before the Commission expecting and demanding similar treatment. For example the elderly, like children, cut across all segments of the population. Strong arguments could be made that the increasing numbers of senior citizens comprise a special "underserved" audience, deserving of certain amounts of particularized programming each week. By this process we would see programming decisionmaking gradually transferred to the Government.

What Is "Instructional"?

The demarcation line between "instructional" and "entertainment" programming, in my judgment, is virtually impossible to draw. For example, a youngster who watched the dramatization of Mark Twain's "Huckleberry Finn,"² learned a powerful lesson about racial bias and societal pressures (particularly if he or she discussed the program afterwards with parents or parental surrogates). Yet this program does not fall within the Commission's definition of a television program "designed for children." The series "The Waltons" and "Little House on the Prairie" are basically entertainment programs for the whole family. Nevertheless they teach millions of children each week fundamental truths about human relations and about the essential character of the American people. "The Winds of Kitty Hawk,"³ a documentary drama about the Wright Brothers, which was aired on the 75th Anniversary of powered flight, sent kids to the libraries for books about aviation and America's role in space. Yet it was not designed as an instructional program for the young.

The five experts whom the staff employed in its study of network programming ran head on into this definitional problem.⁴ When they couldn't agree on whether a show was "entertainment" or "instructional," they would either leave it out or take a vote. This led to such anomalies as CBS' "Captain Kangaroo" for pre-schoolers being categorized in the study as pure entertainment although the Commission itself has consistently held it to be instructional . . . and to the classification of "Audubon Wild Life Theater" as instructional in 1973-74 but not in 1977-78. Omitted altogether was "Kidsworld," one of the best of the informative series developed in response to the FCC's 1974 Guidelines.

Clearly, then, if the Commission eventually were to mandate a certain amount of

instructional programming, the definitional difficulty would lead to endless controversy over which specific programs did or did not fall into the instructional category. Commission personnel inevitably would be involved and would be assuming the role of program decision-makers.

A Broader View Needed

Unfortunately, the Task Force was so locked in by the terms of reference of the Inquiry that an incomplete and misleading picture emerges from its Report. "Television's potential for enriching the lives of children," it says, ". . . is still largely unrealized." But if one takes a broader view and looks at the total accomplishment, a quite different conclusion is reached.

My own experience with TV and children—based on watching and discussing thousands of hours with our daughter and her friends from 1967 to the present—is that there is a vast amount of programming now available from which children can learn. It is a question of wise selection, rather than one of scarcity.⁵

For example, the Task Force could only deal with programs specifically "designed for children" 12 years old and under. It could not consider programs like "The Waltons," or specials like C.S. Lewis' "The Lion, the Witch and the Wardrobe," or even "The Wonderful World of Disney."⁶

Because the Task Force could not take quality into account, a mediocre cartoon counted in the statistical summaries for as much as a sensitive, imaginative program.

Omitted from consideration was the array of educational programs for children offered each day on public television. Yet, clearly, one cannot get a full picture of children's programming available to U.S. families today without taking account of such shows as "Sesame Street," "Mr. Roger's Neighborhood," "The Electric Company", and the splendid new one, "Feelings", conducted by Dr. Lee Stalk.

The informative, short drop-ins for children could not adequately be considered, for example, CBS' "In the News" and ABC's "Schoolhouse Rock."

The Task Force did not study the many new programs produced by local stations throughout the country, quite a few of which were created in response to our 1974 Guidelines.⁷

No attention could be given to the increasing amount of television programming being directed to teenagers, whose problems are the subject of sensitive and helpful dramas and documentaries.⁸

⁵ A representative list of literary works which have appeared on television is attached.

⁶ "The Waltons", CBS, 8-9 p.m. each Thursday. "The Lion, the Witch and the Wardrobe", CBS, April 1 & 2, 1979, 8-9 p.m. "The Wonderful World of Disney", NBC, 7-8 p.m. each Sunday.

⁷ A partial list of these locally-produced children's programs is attached hereto.

⁸ A list of some of these programs is attached. The teenage audience is of equal, if not greater, importance than pre-schoolers and grade-schoolers. The needs and problems of teenagers are very real. I hope that broadcasters will provide the Commission with complete information on programming for young adolescents during the course of this proceeding.

The fact is that, taking the overall view, there has been a significant effort to face up to the challenge of children and television. This can be attributed, at least in part, to the Commission's 1974 Policy Statement. This effort, which is acknowledged by groups like Action for Children's Television and the American Council for Better Broadcasts and by many individual experts like Dr. Rosemary Lee Potter, includes:

Conferences of programming executives, such as those held by the National Association of Broadcasters and by CBS, which have resulted in new locally-produced programs for children.

More funding for children's programming and research.

A growing partnership between educators, parents, and broadcasters—to use television constructively in the home and in the school, as well as to develop "critical viewing skills" in children. Dr. Rosemary Lee Potter characterizes this as "an important movement," commenting that the past two years have seen particularly intense activity. "Constructive use" embraces, for example, the Reading Projects of CBS and Capital Cities Communications, the Parent Participation Workshops of NBC, and the increased availability to teachers of informative background materials on specific programs, such as the printed materials on "Roots" created and distributed by Prime Time School Television. HEW has awarded grants totalling \$1 million for the development of curriculum courses at various grade levels to teach "critical viewing skills." ABC is underwriting the work of psychologists Dr. Jerome Singer and Dr. Dorothy Singer, of Yale, on courses for third, fourth and fifth graders. The Parent Teachers Association, at the national level, is also working in this area.⁹

What seems clear from the range of things being done is that we must look beyond mere statistical quantitative measurements in attempting to judge television's service to children.¹⁰

Indeed the Commission's 1974 Children's Report *requires* our looking beyond statistical quantitative measurements. In outlining what would be expected of licensees, the Report makes clear that we were not requiring every station to come up with additional hours of programming. Market size and other factors were to be taken into account:

" . . . because the considerations as to what constitutes a 'reasonable amount' may vary, according to service area demographics, existing children's programming, market size, network affiliation or independent status, prior commitments to locally-produced programs, and the availability of talent, etc., we believe it is desirable to avoid rules

⁹ Other national organizations are focusing on "constructive use" efforts, e.g., the American Association for Better Broadcasts and the National Association of State Boards of Education. NASBE adopted a resolution to "encourage parents to assume a working partnership with the schools in using public and commercial television to facilitate the formal and informal learning of their children."

¹⁰ I have addressed these developments in a number of talks and articles, a list of which is appended hereto.

² "Huckleberry Finn," March 25, 1975, 8-9:30 p.m., ABC Network.

³ "The Winds of Kitty Hawk," December 17, 1978, 8-10 p.m., NBC Network.

⁴ See *Television Programming for Children: A Report of the Children's Television Task Force*, Vol. 5, "Program Trends in Network Children's Television 1948-1978," Dr. Joseph Turow, pp. 1-73.

which are unnecessarily broad and inflexible."¹¹

Options 3 and 4 . . . calling for across-the-board mandatory programming rules or processing guidelines . . . are the precise opposite of our 1974 self-regulatory approach. The evidence is simply insufficient to warrant the necessity of considering such an unprecedented step.

Self-Regulation Approach Is Working

It is my preliminary view, based on comments and evidence so far, that the general standards set out in the 1974 Report and Policy Statement are still valid today and should continue to apply. In view of the measure of progress noted above, I believe that self-regulation is working, and I would, therefore, request comments on Option 2 in particular, which calls for maintaining or modifying the 1974 Policy Statement. Do our 1974 standards need modifying? Should we hone them into more specific criteria? Should the license renewal form be revised to obtain more comprehensive and precise information about licensees' programming for children?

Reading all the responses we receive, and especially those to the questions posed in paragraphs 35, 36 and 37 of the Notice will be most useful in formulating my final opinion.

Partial List of Children's Programs Produced by Local Television Stations

Whale Shark, KGO-TV, San Francisco, CA.
Days of Liberty, WABC-TV, New York, NY.
California Countdown, KGO-TV, San Francisco, CA.
The Froozies, KJH-TV, Hollywood, CA.
Freestyle, KCET-TV, Los Angeles, CA.
Just Kidding, KRON-TV, San Francisco, CA.
Small Wonders, KRON-TV, San Francisco, CA.
Snippets, WKBS-TV, Philadelphia, PA.
Getting Your Act Together, KTVU-TV, Oakland, CA.
Boomerang, KOMO-TV, Seattle, WA.
Family Tree, WDTN-TV, Dayton, OH.
Eyewitness News Magazine, WFTV-TV, Orlando, FL.
Kidsworld, WFTV-TV, Orlando, FL.
Arthur & Company, WPLG-TV, Miami, FL.
Fun City Five, WTVF-TV, Nashville, TN.
The Floppy Show, WHO-TV, Des Moines, IA.
Our Playmates, WLBT-TV, Jackson, MI.
The Ballad of Fangleless McRattle, KOLN, KGIN-TV, Lincoln, NE.
Scoutabout, WCBD-TV, Charleston, SC.
The Nooze Reports, WBNG-TV, Binghamton, NY.
The Great Metric Mystery, WCAU-TV, Philadelphia, PA.
Magic of Music, WKYC-TV, Cleveland, OH.
Sneakers, WTOP-TV, Washington, DC.
The Magic Door, WBBM-TV, Chicago, IL.
What Do You Do? KYW-TV, Philadelphia, PA.
Catch a Rainbow, WCVB-TV, Needham, MA.
News Bag, WTTG-TV, Washington, DC.
Zep, WJLA-TV, Washington, DC.
For Children Only, KOLN/KGIN-TV, Lincoln, NE.
Caboose, WMAR-TV, Baltimore, MD.
The Eagle's Roost, WDBJ-TV, Roanoke, VA.

Kangaroos, WFSB-TV, Hartford, CT.
The Skipper Chuck Show, WTVJ-TV, Miami, FL.
Energyman, WPGH-TV, Pittsburg, PA.
Clubhouse 11, WKEF-TV, Dayton, OH.
Kalamity Kate's Korral, KOLN/KGIN, Lincoln, NE.
Storyland, WAFB-TV, Baton Rouge, LA.
Composite of Children's Programs, KING-TV, Seattle, WA.
The Children Celebrate, WFSB-TV, Hartford, CT.
Marlo and the Magic Movie Machine, WFSB-TV, Hartford, CT.
Ninos Contendos, KOOL-TV, Phoenix, AZ.

Examples of Programs Dealing With Problems of Teenagers

"Reading, Writing and Reeper" April 17, 1979, 4:00-5:00 p.m. (NBC) News documentary, narrated by Edwin Newman, on the alarming increase in the use of marijuana in the schools and its effect on the lives of users.
"The Late Great Me" November 14, 1979, 4:30-5:30 p.m. (ABC) A young girl and her family struggle with her addiction to alcohol.
"A Home Run for Love" October 11, 1978, 4:30-5:30 p.m. (ABC) An elderly Black man takes a teenager to his first baseball game. The boy gains valuable understanding of life from this friendship. Based on the book: "Thank you, Jackie Robinson."
"Dinky Hocker" November 15, 1978, 4:30-5:30 p.m. (ABC) Story deals with the agonizing over-eating problem of a 165-lb fourteen-year-old and her relationship with her too-busy mother.
"Make Believe Marriage" February 14, 1979, 4:30-5:30 p.m. (ABC) Ten high school seniors "get married," get jobs, have babies and deal with divorce—all in a 12-week modern marriage course.
"The Terrible Secret" March 7, 1979, 4:30-5:30 p.m. (ABC) Story of a teenager's struggle to accept the consequences of her own wrongdoings stemming from a hit-and-run accident on a foggy night.
"Which Mother Is Mine" September 26, 1979, 4:30-5:30 p.m. (ABC) A teenage girl is torn between her natural mother and the foster parents who have given her a loving home for six years.
"A Special Gift" October 24, 1979, 4:30-5:30 p.m. (ABC) A teenage boy must choose between playing on his school basketball team or ballet rehearsals for his first professional appearance. He must also face the taunts of his father and friends, who think dancing is for sissies.
"Mom and Dad Can't Hear Me" April 5, 1978, 4:30-5:30 p.m. (ABC) A normal 15-year-old girl faces the difficult problem of bringing new classmates home to meet her deaf parents. The world of the deaf is revealed in this moving story.
"Feelings . . . with Dr. Lee Salk" Saturdays 1979-80, 5:30-6:00 p.m. (PBS) Adolescents discuss their feelings and emotions.
"Freestyle" 1979-80 (Series) (PBS) A family drama series designed to counter sex role stereotyping among young people.
"The Boy Who Drank Too Much" Early 1980 (CBS) Story of the friendship between two teenage boys, one of whom is an alcoholic.

"My Old Man" Early 1980 (CBS) Drama of poignant efforts of a 16-year-old girl to make a go of life with her hapless horsetrainer father.
"Sooner or Later" March 25, 1979, 8:00-10:00 p.m. (NBC) Sexual awakening of a 13-year-old girl, who learns the importance of honesty in a relationship.
"The Survival of Dana" May 1979 (CBS) A teenage girl is drawn into a middle-class youth gang, where her values are challenged.
"The Tap Dance Kid" October 24, 1978, 4:00-5:00 p.m. (NBC) Conflict between a brother and sister and their parents who want to choose their children's careers for them.
"Joey and Redhawk" November 27 and December 7, 1978 (CBS) Two 14-year-old friends, one a Ute Indian, must cope with the pressures of a prejudiced society. Each discovers the importance of his own worth: what it means to "Know Thyself."
"Cry for Help" (ABC) Drama dealing with the growing problem of teenage suicide.
"The Five-Finger Discount" November 1, 1977, 4:00-5:00 p.m. (NBC) 15-year-old Cornelia moves to a new city and shoplifts to be accepted by the "popular" girls in her class.
"Papa and Me" January 10, 1978, 4:00-5:00 p.m. (NBC) A dying old man teaches his grandson that death is not to be feared, but part of life.
"Snowbound" February 7, 1978, 4:00-5:00 p.m. (NBC) Two teenagers, lost in a storm, find their way home emotionally as well as physically.
"As We See It" 1979-80 (Series) (PBS) Teenagers' perception of desegregation, its meaning and impact on their lives.
"Getting Over" 1979-80 (Series) (PBS) Deals with teenage life-coping skills.
"Studio See" 1979-80 (Series) (PBS) Investigates topics and people of interest to adolescents.
"Watch Your Mouth" 1979-80 (Series) (PBS) Language arts for inner city adolescents.

Talks and Articles on Children and Television by Commissioner Abbott Washburn

Remarks at the National Association of Broadcasters Children's Television Program Conference, Hyatt Regency Hotel, Washington, D.C., June 6, 1978.
Remarks before WRC-TV's Symposium on Parent Participation TV Workshops, Project of Teachers Guides to Television, L'Enfant Plaza Hotel, Washington, D.C., September 29, 1978.
Remarks at the National Association of State Boards of Education Annual Convention, "Broadcasters Are Educators, Too", Hershey Motor Lodge and Convention Center, Hershey, PA, October 14, 1978.
Article in *Teacher* magazine, December 1978, "Comments on the Quality of Children's Television."
Article in *Broadcast Daily* (NATPE Convention Issue), March 10, 1979 "Strengthening the Partnership With Educators—A NATPE Goal."
Article in *Television/Radio Age*, March 26, 1979, "TV Literacy": a constructive use of television for child development.
Remarks at the American Council for Better Broadcasts Conference on "Toward A

¹¹ See *Memorandum Opinion and Order*, 55 FCC 2d 691, 693 (1975).

Media-Wise Society for the 1980's", Hilton Hotel, Chicago, Illinois, November 11, 1979, "Glimpsing the Challenge of the 1980's. . . Parents, Children, Teachers and Broadcasters Are Learning to Make the Most of Television".

Separate Statement of Commissioner Joseph R. Fogarty

In Re: Children's Television Programming and Advertising Practices, Docket No. 19142, Notice of Proposed Rulemaking.

In 1974, after a three-year inquiry, this Commission issued a *Report and Policy Statement on Children's Programming and Advertising Practices (Policy Statement)*¹ which found that television programming for children was inadequate and established several guidelines and standards with which commercial broadcasters were expected to comply. The guidelines for programming called on broadcasters to make a "meaningful effort" to provide programming for children, to provide educational and age-specific children's programs, and to schedule children's programs more evenly through the week rather than entirely on weekends. The Commission did not reduce these guidelines to mandatory rules but rather gave licensees a reasonable period of time to comply voluntarily, expecting full compliance by January 1, 1976.

While the *Policy Statement's* emphasis was on voluntary self-regulation, the Commission stated that it would revisit the proceeding, assess the effectiveness of industry compliance efforts, and consider further action, including rules, if improvements were not forthcoming. On appeal, the *Policy Statement* was upheld by the District of Columbia Circuit Court of Appeals, which observed that "having recognized that a serious problem exists in this area, the agency has a continuing responsibility to do something about it should subsequent experience demonstrate that more needs to be done."²

Pursuant to the *Second Notice of Inquiry* in this proceeding,³ the Commission began the required evaluation of broadcaster compliance with the 1974 *Policy Statement*. Based on both an analysis of the comments filed in response to the *Second Notice* and studies conducted by or for the Commission, our Children's Television Task Force has reached the conclusion that while broadcasters have in general complied with the advertising guidelines, they have not complied with the guidelines for children's programming. The Task Force's findings, conclusions, and recommendations have been released to the public, and the Commission has received informal comments thereon from interested parties—broadcasters, networks, Members of Congress, citizens groups, and educators.

It is not surprising that the early reviews have been extremely mixed. The broadcast industry has sharply challenged the factual

basis for the Task Force's conclusions, particularly the accuracy and completeness of the Abel Study on the amount and scheduling of children's television programs during two TV seasons, 1973-74 and 1977-78. The staff has countered with a refutation of the industry criticisms which has been circulated to the Commissioners and released to the public. Citizens groups and individual members of the public have generally endorsed the Task Force's report and recommendations with respect to the programming issues, but have disputed the Task Force's assessment of the advertising issues. Members of Congress have counseled caution and an abundance of fairness in addressing and resolving the policy and constitutional issues involved.

Against this background, I believe it is both necessary and appropriate to commence this *Notice of Proposed Rule Making*. The critical consideration now is to move the ongoing informal debate onto the formal public record, for it is on a full and complete public record that the issues must be decided. The issuance of this *Notice* makes the necessary transition.

It also bears emphasizing that the Commission has been "inquiring" into the subject of television and children since 1971, and I would hope that almost a decade later we would be prepared to determine what the regulatory bottom-line should be. This is not to underestimate the difficulty—and, indeed, the potential contentiousness—of the issues involved. But, there comes a point when a decision is required, and I believe we have reached it.

For me, the basic issues are simply stated: either broadcasters are meeting the obligations imposed by the 1974 *Policy Statement*, or they aren't; if they aren't, then the Commission must either take the requisite regulatory action to ensure compliance, or it must reconsider whether it really meant what it told the industry in 1974. If we don't mean it, then we shouldn't say it; and, by the same token, if we say it, then we have to mean it. We are in an area where clarity and credibility of agency decision-making are of paramount importance.⁴

At this juncture, however, I am pleased that the *Notice* we are issuing is open-ended and noncommittal in terms of findings, conclusions, and possible action options. The Commission has not endorsed the Task Force report, and the report's analysis, findings, and conclusions should be—and are—open to full public comment. In this regard, assuming industry noncompliance with the programming guidelines (a conclusion which the Commission has not reached), the Task Force's proposal of a 7½ hour per week children's programming requirement should be seriously, but cautiously, considered. Candor, however, compels a preliminary observation that resort to such direct program regulation is fraught with difficulties from a First Amendment, as well as "marketplace," perspective. The question

here is whether diagnosis of the disease will warrant so drastic a cure.

Separate Statement of Commissioner Tyrone Brown

In Re: Notice of Proposed Rulemaking on Children's Television Programming

The Commission today moves cautiously into a proposed rulemaking in this proceeding which commenced with the filing of a petition by Action for Children's Television in 1970.

Over the past nine years, we have twice declined to adopt formal rules relating to commercials in children's programming;¹ we have twice rejected an approach that would have required the commercial networks to offer some programming for children on a cooperative basis;² we have twice confirmed that the focus of this proceeding is on television programs specifically designed for children, not on what children happen to watch.³ The sole remaining issue is whether this agency can and should take steps to require or encourage the broadcast of more young children's programming during the weekday periods when they watch television in the greatest numbers.

Released 48 days ago, the Report of our Task Force on Children's Television has become, happily, a subject of controversy. We delayed issuing today's *Notice*—and, and, at the suggestion of Members of Congress⁴ and others, we now delay opening the formal comment period largely to give interested parties time to assess and react to data and analyses contained in the five volumes of the Task Force Report.

At the moment, the Report presents the most comprehensive picture available to us on Children's programming on commercial television. We recognize that the picture is incomplete and that it may be flawed. It is, after all, the purpose of a notice of *proposed* rulemaking to subject a proposed course of action, and the record on which it is based, to skeptical examination in the harsh light of the adversarial process.

In this instance, we are not wedded to a particular course of action. The options on which the Commission seeks comment include elimination of our 1974 *Policy Statement*, reaffirmation of the *Statement*, further clarification of the *Statement*, reliance on emerging technologies, adoption of processing guidelines and adoption of mandatory quantitative programming requirements.

Among the options, the last one is the most troublesome. It would involve direct governmental intrusion into broadcasters' programming decisions. While a limited intrusion may well pass First Amendment muster if the full record in this proceeding

¹ We first declined to adopt such rules in 1974 when we issued our *Children's television report and Policy Statement*, 50 FCC 2d 1.13. Today, we again decline to adopt such rules.

² We rejected such an approach in our *Memorandum Opinion and Order* in Docket No. 19142, 55 FCC 2d 691, 692, 695-96 (1975). Today, we again decline to adopt such an approach.

³ 50 FCC 2d at 5.

⁴ Letter from Senator Ernest F. Hollings to FCC Chairman Charles D. Ferris (December 7, 1979); letter from Senator Howard W. Cannon to FCC Chairman Charles D. Ferris (December 11, 1979).

¹ 50 FCC 2d 1 (1974), recon. denied, 55 FCC 2d 691 (1975), aff'd sub nom., *Action for Children's Television v. FCC*, 564 F.2d 458 (D.C. Cir. 1977).

² *Action for Children's Television v. FCC*, 564 F.2d 458 at n.40 (D.C. Cir. 1977).

³ *Second Notice of Inquiry in Docket No. 19142*, 68 FCC 2d 1344 (1978).

⁴ See *Writers Guild of America, West, Inc. v. FCC*, 423 F. Supp. 1064 (C.D. Cal. 1976), vacated sub nom. *Tandem Productions, Inc. v. National Broadcasting Co., Inc.*, — F.2d — (9th Cir. November 14, 1979).

clearly establishes that 37 million young children are being shortchanged, even limited intervention into areas heretofore left to broadcaster discretion are to be avoided if at all possible. Moreover, there is the risk that a quantitative requirement could prove to be counterproductive. The Commission will not, for example, have accomplished much if, as a result of the approach we take, commercial broadcasters sacrifice quality in children's programming in favor of the security of numbers.

At the moment, I see only two advantages to a quantitative requirement: First, it would put all broadcast licensees on an equal footing, where the economics of programming do not assure marketplace competition; second, such a requirement would assure more, though not necessarily "better," programming for young children.

It is conventional wisdom that the FCC may not concern itself with quality in programming. Yet, no one seriously doubts that as the quantity of commercial children's programming is in the spotlight in this proceeding, so the quality of such programming—however one may define "quality"—is a large presence offstage.

The Commission cannot mandate quality children's programming; that must be left to the artist and the broadcaster. But we must look the issue of quality squarely in the face so that our actions do not discourage the artistic community and commercial broadcasters from offering their best, not merely more.

Looking directly at the issue of quality, it does appear that broadcasters have produced, and parents and educators have acknowledged, an improvement in commercial children's programming over the past decade. When this proceeding began, there were no SPECIAL TREATS, or AFTERSCHOOL SPECIALS, or FAT ALBERT AND THE COSBY KIDS, or SCHOOLHOUSE ROCK, or MARLO AND THE MAGIC MOVIE MACHINE, or BIG BLUE MARBLE, or IN THE NEWS. Each of these programs, and others that could be cited, have received multiple awards from educational and parent organizations which have concluded that they stimulate young children's imaginations and instruct or inform, usually in an entertaining way.

At the same time, however, the record before us indicates that programs specifically designed for children are rarities during the weekday periods when young children do much of their viewing. Of the programs listed above, for example, only two are aired on weekdays—NBC's SPECIAL TREATS once monthly, and ABC's AFTERSCHOOL SPECIALS twice monthly. In fact, among the commercial networks, only one, CBS, broadcasts a daily program for young children and only one, CBS, broadcasts an instructional program for preschoolers. The sole entrant in each category is the long-running CAPTAIN KANGAROO.⁵

⁵ In addition, Romper Room, Inc., distributes ROMPER ROOM in approximately 50 cities. ROMPER ROOM and CAPTAIN KANGROO appear to be the only preschool instructional programs that approach national distribution.

I have cited programming by the commercial networks not because they have a greater or an

administrative agency proceeding. I will be delighted if those responses make further action by the Commission unnecessary.

What does the available data tell us about young children's viewing during the weekday periods? First, it appears that children aged 2-11 represent approximately 50 percent of the weekday 7:00-9:00 a.m. television audience. Second, it appears that this group makes up more than 30 percent of the afterschool audience. Third, it appears that the daytime segment during which young children are most likely to be viewing television is the 4:30-6:00 p.m. period, the segment in which, on a national basis, there is no regularly scheduled commercial children's programming.⁶

As we close the inquiry stage of this proceeding, I welcome critical comment directed at the Task Force Report. And, since that Report is only an intermediate stopping point and not the end of our investigation, I ask the commenting parties to consider both the validity and the implications of the following:

1. That the commercial broadcast industry has shown that it can produce instructional and informative programming specifically designed for young children of a type that generally would be recognized as "quality" programming.

2. That economic incentives (and in this regard I agree with the analysis in the Task Force Report) are inadequate, at least in the short run, for most broadcasters to provide weekday programming designed for young children on a regular basis.

3. That, nonetheless, commercial broadcasters, and not only the public television system, have a public interest obligation to serve young children with programming designed for them during part of the weekday periods when they are a substantial portion of the television audience.

4. That the Commission—on the basis of a full record and within the limits of the First Amendment and Section 326 of the Communications Act—may impose requirements on broadcasters to foster programming for children.

If we are to see a resolution of the problem that has vexed the industry, the public and the Commission for a decade, I believe we must have well-reasoned and well-researched responses to these propositions. Of course, in the long run, if we are to see an increase in what generally can be accepted as "quality" children's programming during relevant time periods, we will need constructive, imaginative responses from program producers and syndicators, from the commercial networks and individual licensees, and from educators and parent organizations outside the context of an

independent legal obligation in this area, but because their decisions, reached in conjunction with their affiliates, are probably central to any significant changes that can be expected in the scheduling of programming specifically designed for children. At the same time, I recognize that a number of such programs—for example, ROMPER ROOM and MARLO AND THE MAGIC MOVIE MACHINE—originate from syndicated sources, and that many group broadcasters and individual stations produce children's programs.

⁶ The statistics in the text are based on 1977 and 1979 Arbitron surveys in ten of the top 100 television markets, as set forth in Fontes, "Demographic Analyses of Children's Weekday Viewing," Task Force Report, Vol. III.

administrative agency proceeding. I will be delighted if those responses make further action by the Commission unnecessary.

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