

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554

In the Matter of)	
)	
Implementation of the Child Safe Viewing)	MB Docket No. 09-26
Act; Examination of Parental Control)	
Technologies for Video and Audio)	
Programming)	

REPLY COMMENTS OF CHILDREN’S MEDIA POLICY COALITION

Children Now, the American Academy of Child and Adolescent Psychiatry, the American Academy of Pediatrics, American Psychological Association, Benton Foundation, and the United Church of Christ (“Children’s Media Policy Coalition” or “CMPC”), respectfully submit these reply comments in response to the Federal Communication Commission’s (“FCC” or “Commission”) Notice of Inquiry requesting comment on “the existence and availability of advanced blocking technologies that are compatible with various communications devices or platforms.”¹ The nearly ten thousand comments filed in this proceeding – the vast majority of which were submitted by parents and other concerned members of the public – demonstrate that effective parental control over potentially objectionable television content is an important issue for American families. CMPC takes this opportunity to expand on points made in our initial comments and to respond to issues raised by other commenters in this proceeding.

I. The V-Chip Remains An Important Tool For Protecting Children From Inappropriate Or Objectionable Television Content Even In Light Of Alternative Blocking Systems And New Technologies

The V-Chip is still the only content-blocking mechanism available to every family without additional cost beyond the purchase of a V-Chip equipped television set. The V-Chip

¹ *Implementation of Child Safe Viewing Act*, 74 Fed. Reg. 11334 (2009); *see* Child Safe Viewing Act of 2007, Pub. L. No. 110-452, § 2(a), 122 Stat. 5025, 5025 (2008).

remains a baseline tool for families that choose not to purchase – or cannot afford – expensive cable and satellite television subscriptions or DVR devices. Accordingly, it is imperative that the Commission remain committed to ensuring access to and the effectiveness of the V-Chip.

CMPC is pleased that cable and satellite providers, as well as manufacturers of newer technologies such as digital video recorders (“DVRs”), are currently providing mechanisms other than the V-Chip to help parents control their children’s access to inappropriate television content.² However, the existence of such alternatives does not obviate the need to address flaws that limit the use and effectiveness of the V-Chip. The blocking technologies offered by cable and satellite providers typically require rental or purchase of a set-top box associated with costly subscription packages. Similarly, DVRs remain prohibitively expensive for many families. The V-Chip, on the other hand, does not require parents to subscribe to a television service or to rent or purchase any additional equipment to protect their children from content they deem inappropriate.

Additionally, the V-Chip still provides an important and free blocking mechanism for families that do subscribe to cable or satellite television. While nearly 90% of homes subscribe to cable or satellite television services, that figure represents penetration *per household* rather than per television set.³ On average most households have around three television sets⁴ and

² See, e.g., Comments of Comcast Corporation, MB Dkt. No. 09-26, filed April 16, 2009; Comments of Cox. Communications, Inc., MB Dkt. No. 09-26, filed April 16, 2009; Comments of DirecTV, Inc., MB Dkt. No. 09-26, filed April 16, 2009; Comments of United States Telecom Association, MB Dkt. No. 09-26, filed April 16, 2009.

³ See *Annual Assessment of the Status of Competition in the Market for the Delivery of Video*, 12th Annual Report, 21 FCC Rcd. 2503, 2506 (2006).

⁴ In 2008, the average American household owned 2.83 television sets, while the average American household with more than one television set owned 3.3 sets. The Television Bureau of Advertising, Media Trends Track, TV Basics: TV Sets Per Household, http://www.tvb.org/rcentral/MediaTrendsTrack/tvbasics/07_5_TV_Per_HH.asp (last visited May 4, 2009).

statistics show that even families with cable or satellite choose not to subscribe to such services for every television in their home.⁵

Moreover, even television sets that are connected to cable or satellite services often do not have set top boxes, because such devices are usually associated with more expensive subscription packages. In 2007, 36% of U.S. television sets were still not connected to a cable or DBS set top box.⁶ As of March 2009, only 30.6% of U.S. households owned a DVR.⁷ The V-Chip therefore continues to serve an important function for parents who wish to protect their children from objectionable television content without having to rent or purchase additional equipment for every television set they own.

The Commission should, of course, encourage cable and satellite television providers and DVR manufacturers to continue developing innovative parental control technologies. However, many families cannot afford to rely solely on expensive cable or satellite television subscriptions or DVRs to protect their children from objectionable television content. By using this proceeding to promote access to and the effectiveness of the V-Chip, the Commission can ensure that all parents have a viable tool to support their decisions about what television content is appropriate for their children.

⁵ A study by Leichtman Research found that 23% of television sets in American homes—over 70 million sets—did not receive cable or satellite television in 2007. Approximately half of these were in households that also subscribed to a cable or satellite service. *See* Michael Hopkins, *A Big Panic . . . Or a Big Yawn?*, *The Bridge*, Oct. 23, 2007, *available at* http://www.mediabiz.com/media/archives/DTV_BR102307.pdf.

⁶ *See id.*

⁷ The Nielson Company, *How DVRs Are Changing the Television Landscape* 3 (2009), *available at* http://blog.nielsen.com/nielsenwire/media_entertainment/how-dvrs-are-changing-the-television-landscape.

II. The Efficacy Of The V-Chip And Other Television Content Blocking Technologies Depends On What Content Is Rated And How Consistently And Accurately Those Ratings Are Applied

The Commission's inquiry into the use and effectiveness of the V-Chip, as well as alternative television content blocking tools associated with set-top boxes and DVRs, should include a thorough examination of what kinds of content are currently rated and how those ratings are assigned, as well as how to promote the availability of multiple ratings systems. To that end, CMPC would like to reinforce two points made in its comments. First, we reiterate that measures designed to increase the use and effectiveness of the V-Chip technology will be insufficient unless program ratings are applied consistently and accurately to all potentially objectionable television content – including advertising content. Second, CMPC and others believe that an Educational/Informational (“E/I”) content descriptor should be added to the current television ratings system to allow parents to channel beneficial content to their children.

A. Parents Should Be Able To Block Inappropriate And Covert Advertising Content

Sexual and violent content is not limited to television shows, but is found increasingly in the commercials that accompany regular programming. Additionally, as demonstrated in the FCC's recent proceeding on embedded advertising, parents are concerned about the increasing use of hidden advertisements in television shows, and the effect that covert advertising has on the health and well-being of their children.⁸ Accordingly, the Commission should consider ways to empower parents to protect their children from inappropriate content aired during commercial breaks, as well as covert advertising content embedded in actual television programs. Such protections could easily be achieved by adding a content descriptor to programs containing

⁸ See Comments of the Children's Media Policy Coalition at 12, MB Dkt. No. 09-26, filed April 16, 2009.

embedded advertising messages and by rating commercials so that those that may be inappropriate for children could be blocked using the existing V-Chip technology.⁹

The Association of National Advertisers (“ANA”) argues that inviting comment on whether commercials should be rated exceeds the scope of the Child Safe Viewing Act.¹⁰ To the contrary, whether commercials should be rated so that parents can better control their children’s access to objectionable material is an entirely appropriate issue for the FCC to consider. The Act directs the FCC to “examine the existence and availability of advanced blocking technologies that parents could use . . . to protect their children from inappropriate content.”¹¹ Whether such content originates with programmers or advertisers is irrelevant to the many parents who are deeply concerned with inappropriately violent or adult-themed advertisements that air during supposedly age-appropriate programming.¹²

The ANA further asserts that ad ratings are unnecessary because industry self-regulation has effectively limited children’s exposure to ads containing objectionable content.¹³ This is simply not true. Indeed, a recent study by Common Sense Media found that approximately 16% of all ads that aired during broadcasts of Sunday NFL games in 2008, which are viewed by nearly 2.8 million kids ages 2–11 every week, contained messages and images involving sex, violence, or alcohol.¹⁴ Of the 6000 ads reviewed in the study, 300 were for alcoholic beverages; 500 featured “significant levels of violence, including gun fights, explosions, and murders;” and

⁹ *Id.* at 10–11.

¹⁰ Comments of Association of National Advertisers at 4–5, MB Dkt. No. 09-26, filed April 16, 2009 (“ANA Comments”).

¹¹ S. Rep. No. 110-268 at 1 (2008).

¹² *See* Parents, Children, and Media: A Kaiser Family Foundation Survey 1, 3 (2007).

¹³ ANA Comments at 6–8.

¹⁴ Common Sense Media, Broadcast Dysfunction: Sex, Violence, Alcohol, and the NFL at 3 (2009).

80 featured “significant levels of sexuality, including scenes about prostitution and strippers.”¹⁵ Additionally, 40 of the 57 games reviewed included ads for erectile dysfunction medication.¹⁶

To help parents protect their children from inappropriate advertising content, commercials should be assigned ratings, much like television programs, so that parents can block those that contain violent or sexual images or themes. Additionally, the ratings should include a content descriptor identifying commercials that promote adult-oriented products so that parents have the option of blocking ads for movies or video games that are intended for mature audiences, as well as alcoholic beverages and certain prescription drugs. Not only would assignment of such ratings allow parents to block advertising content that they deem inappropriate for their children, but it would also allow networks and distributors to make better informed decisions regarding what commercials are appropriate for a program’s intended audience.

The ANA also argues that enabling parents to use the V-Chip to block inappropriate television advertisements would undermine the financial support for ad-supported television.¹⁷ CMPC is well aware that television programming is supported by advertising revenue and is not insensitive to the ANA’s concerns. However, we believe that those concerns are based on a fundamental misunderstanding of how such a system would work. CMPC’s proposal would not allow parents to block *all* advertising; rather, parents would be able to block only those ads that had been assigned a content descriptor indicating that they contain violent or sexual content, or promote a product that is inappropriate for children. Advertising that is appropriate for general audiences would not require a content descriptor, and could not be blocked using the V-Chip.

¹⁵ *Id.* at 2.

¹⁶ *Id.*

¹⁷ ANA Comments at 6–11.

Thus, the ANA’s concern that the “development of separate systems for rating commercials might enable viewers to more broadly block advertisements altogether . . . [which] would quickly diminish the value of—and thus price paid for—ad availabilities”¹⁸ is misplaced. It is doubtful that the system CMPC has proposed would undermine advertising revenue for broadcast stations, because parents who choose to block such content because they find it offensive or inappropriate are unlikely to be receptive to such advertising in the first place. Moreover, even if advertisers demand lower prices for potentially inappropriate commercials that are more likely to be blocked, the overall television funding base would be diminished only if there were no other advertisers willing to buy that same advertising time to air a commercial not containing objectionable content. Such a scenario seems highly unlikely.

Parents’ current inability to protect their children from inappropriate advertising content is a pressing issue for many families. As such, and because CMPC’s proposed solution presents no legitimate basis for concern with regards to the future revenue base of ad-supported television, the Commission should encourage industry to adopt commercial ratings that would allow parents to protect their children from inappropriate television advertisements.

B. Many Commenters In This Proceeding Support The Addition Of An E/I Content Descriptor To The Current TV Ratings System

Multiple commenters have expressed their support for incorporating an E/I content descriptor into the existing program ratings system.¹⁹ The Coalition for Independent Ratings proposed that a content descriptor for E/I programming be added to “help parents find

¹⁸ *Id.* at 6.

¹⁹ See Comments of Coalition for Independent Ratings at 3, MB Dkt. No. 09-26, filed April 16 2009; Comments of Common Sense Media at 8–9, MB Dkt. No. 09-26, filed April 16, 2009; Comments of the Smart Television Alliance at 4–5, MB Dkt. No. 09-26, filed April 16, 2009.

appropriate programming for their children and help broadcasters fulfill their E/I obligations.”²⁰ Common Sense Media also expressed support for “the enabling or ‘opening up’ of the V-Chip to read for an E/I classification” to “enable parents to search for programs they desire in lieu of only blocking that which is objectionable.”²¹ And the Smart Television Alliance pointed out that “the dominant focus on excluding negative programming misses the positive influence television can have.”²² CMPC agrees that allowing parents to use the V-Chip to affirmatively select good programming for their children, rather than just to block objectionable programming, would increase the V-Chip’s effectiveness as a parental control mechanism. Given the FCC’s longstanding commitment to promoting E/I programming, the Commission should take this opportunity to fulfill its promise to examine whether digital broadcasters should be required to embed E/I information in their program streams for use with the V-Chip.²³

Respectfully Submitted,

/s/

Angela J. Campbell, Esq.
Coriell Wright, Esq.

Matthew Scutari
Georgetown University Law Center
Law Student

Institute for Public Representation
Georgetown University Law Center
600 New Jersey Avenue, N.W.
Washington, D.C. 20001
(202) 662-9535

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Counsel for Children’s Media Policy
Coalition

²⁰ Coalition for Independent Ratings Comments at 3.

²¹ Common Sense Media Comments at 8–9.

²² Smart Television Alliance Comments at 4–5.

²³ See *Children’s Television Obligations of Digital Television Broadcasters*, 19 FCC Rcd. 22943, ¶ 65 (2004).