

are due on or before August 20, 2004. The Bureau requires that all comments and reply comments be filed electronically. Comments and reply comments must be sent by electronic mail to the following address: [auction58@fcc.gov](mailto:auction58@fcc.gov). The electronic mail containing the comments or reply comments must include a subject or caption referring to Auction No. 58 Comments and the name of the commenting party. The Bureau requests that parties format any attachments to electronic mail as Adobe® Acrobat® (pdf) or Microsoft® Word documents. Copies of comments and reply comments will be available for public inspection during regular business hours in the FCC Reference Information Center, Room CY-A257, 445 12th Street, SW., Washington, DC 20554. In addition, the Bureau requests that commenters fax a courtesy copy of their comments and reply comments to the attention of Kathryn Garland at (717) 338-2850.

6. This proceeding has been designated as a "permit-but-disclose" proceeding in accordance with the Commission's *ex parte* rules. Persons making oral *ex parte* presentations are reminded that memoranda summarizing the presentations must contain summaries of the substance of the presentations and not merely a listing of the subjects discussed. More than a one or two sentence description of the views and arguments presented is generally required. Other rules pertaining to oral and written *ex parte* presentations in permit-but-disclose proceedings are set forth in § 1.1206(b) of the Commission's rules.

Federal Communications Commission.

**Gary Michaels,**

*Deputy Chief, Auctions and Spectrum Access Division, WTB.*

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BILLING CODE 6712-01-P

## FEDERAL COMMUNICATIONS COMMISSION

[MM Docket No. 04-261; FCC 04-175]

### Violent Television Programming and Its Impact on Children

**AGENCY:** Federal Communications Commission.

**ACTION:** Notice of inquiry.

**SUMMARY:** In this document, the Commission seeks comment on issues relating to the presentation of violent programming on television and its impact on children.

**DATES:** Comments are due September 15, 2004; reply comments are due October 15, 2004.

**ADDRESSES:** Federal Communications Commission, 445 12th Street, SW., Washington, DC 20554. For further filing information, see **SUPPLEMENTARY INFORMATION**.

**FOR FURTHER INFORMATION CONTACT:** Ben Golant, (202) 418-7111 or [Ben.Golant@fcc.gov](mailto:Ben.Golant@fcc.gov).

**SUPPLEMENTARY INFORMATION:** This is a synopsis of the Notice of Inquiry, FCC 04-175, adopted July 15, 2004 and released July 28, 2004. The full text of the Commission's NOI is available for inspection and copying during normal business hours in the FCC Reference Center (Room CY-A257) at its headquarters, 445 12th Street, SW., Washington, DC 20554, or may be purchased from the Commission's copy contractor, Qualex International, (202) 863-2893, Portals II, Room CY-B402, 445 12th St., SW., Washington, DC 20554, or may be reviewed via Internet at <http://www.fcc.gov/mb>.

### Synopsis of the Notice of Inquiry

#### I. Introduction

1. We initiate this *Notice of Inquiry* ("NOI") to seek comment on issues relating to the presentation of violent programming on television and its impact on children. Violent television programming content has been a matter of private and governmental concern and discussion from at least the early 1950s. Congress' response, in 1996, was adoption of section 551 of the Telecommunication Act 1996, which resulted in the Commission's implementation of the companion elements of the voluntary television rating system and associated "V-chip" technology in 1998. More recently, the Commission has received continuing expressions of Congressional concern with respect to violent programming. On March 5, 2004, thirty-nine members of the U.S. House of Representatives, Committee on Energy and Commerce, requested the Commission to begin a "Notice of Inquiry on the issue of excessively violent broadcast television programming and its impact on children." This proceeding is designed to be responsive to these concerns and to update the record on issues related to programmatic violence.

2. Through this proceeding we seek comment and information along the following lines of inquiry. How much violent programming is there, and what are the trends? What are the effects of viewing violent programming on children and other segments of the

population? If particular portrayals of violence are more likely to cause deleterious effects than others, what specific kinds of programming should be the focus of any further public policymaking in this area? Should any further public policymaking address all violence or just excessive or gratuitous violence, and how should that be defined? Are the ratings system and the V-chip accomplishing their intended purpose, or are there additional mechanisms that might be developed to control exposure to media violence? Finally, are there legal constraints on either Congress or the Commission to regulate violent programming?

### II. Discussion and Request for Comment

#### A. Incidence of Violent Programming

3. We seek specific information concerning how much televised violence there is on broadcast and non-broadcast television and whether the amount of violent programming is increasing or decreasing. The National TV Violence Study, which appears to be of the most extensive content analyses to date, involving the efforts of more than 300 people recording and watching more than 10,000 hours of television programming from 1994 to 1997, indicates that more than half of all television programming contains violence. More specifically, during the period of the study, the proportion of programming with violence consistently hovered around 60%. During prime time, the proportion rose from 53% to 67% on broadcast networks, and from 54% to 64% on basic (*i.e.*, non-premium) cable channels. In addition, cartoons include an average of approximately one "high-risk" portrayal of violence per cartoon, as categorized by the researchers. There have been more recent reports on television violence. For example, the Parents Television Council ("PTC") conducted a content study finding that on all the television networks combined, violence was 41% more frequent during the 8 p.m. Family Hour in 2002 than in 1998 and during the second hour of prime time (9-10 p.m.), violence was 134.4% more frequent in 2002 than in 1998.

4. We seek additional information on the frequency of televised violence. The National TV Violence Study reports the results of study during the three-year period 1994-1997. What more recent information, aside from the PTC Study noted above, is available about the incidence of violence on television programming? What are the trends? Are there differences between broadcast and non-broadcast media (*i.e.*, cable and satellite)? Are there differences between

premium and non-premium channels on cable or satellite?

### B. Effects of Viewing Violent Programming

5. At its core, concern about media violence derives from concern about deleterious effects, particularly on children, that may result from exposure to it. Over the course of several decades, much research has been developed to examine and study these effects. Much of the research within the public health and scientific communities suggests that exposure to media violence can be associated with certain negative effects. Three types of studies have generally been described in the literature; (1) field experiments in which subjects are shown video programming with their short-term post-viewing behavior monitored by researchers; (2) cross-sectional studies involving a survey of a sample of individuals at one point in time and their conduct correlated with the amount and type of their television viewing; and (3) longitudinal studies that survey the same group of individuals at different times over many years to determine the effects of television viewing on subsequent behavior. Through these studies efforts have been made to establish a cause and effect relationship between the viewing of "violent" programming by "children" and subsequent aggressive behavior on the part of these individuals. Various definitions of violence and various age groups have been involved. Some of the studies also involve the effects of television viewing of all types rather than just violent programming. Some involve the behavior of college-age or older viewers. The researchers have tended to focus on three possible harmful effects: (1) Increased antisocial behavior, including imitations of aggression or negative interaction; (2) desensitization to violence; and (3) increased fear of becoming a victim of violence.

6. A year 2000 review of the scientific research on the effects of entertainment media violence on children, which appears as part of the Federal Trade Commission's report on *Marketing Violent Entertainment to Children*, summarized the research as follows:

A majority of the investigations into the impact of media violence on children find that there is a high *correlation* between exposure to media violence and aggressive and at times violent behavior. In addition, a number of research efforts report that exposure to media violence is correlated with increased acceptance of violent behavior in others, as well as an exaggerated perception of the amount of violence in society. Regarding causation, however, the studies

appear to be less conclusive. Most researchers and investigators agree that exposure to media violence alone does not cause a child to commit a violent act, and that it is not the sole, or even necessarily the most important, factor contributing to youth aggression, anti-social attitudes, and violence. Although a consensus among researchers exists regarding the empirical relationships, significant differences remain over the interpretation of these associations and their implications for public policy.

A 2001 report from the United States Surgeon General's 2001 *Youth Violence: A Report of the Surgeon General* summarized the research thus:

In sum, a diverse body of research provides strong evidence that exposure to violence in the media can increase children's aggressive behavior in the short term. Some studies suggest that long-term effects exist, and there are strong theoretical reasons why this is the case. But many questions remain regarding the short- and long-term effects of media violence, especially on violent behavior. Despite considerable advances in research, it is not yet possible to describe accurately how much exposure, of what types, for how long, at what ages, for what types of children, or in what types of settings will predict violent behavior in adolescents and adults.

Research has continued since the completion of these two Reports, including new longitudinal studies buttressing the conclusion that childhood exposure to media violence lasts into adulthood and increases aggressive behavior. In addition, researchers have developed new methods of measuring the impact of exposure to media violence on children, including MRI brain mapping research conducted at the Indiana University School of Medicine and elsewhere. According to testimony given in 2003 before the Senate Committee on Commerce, Science & Transportation, a comprehensive bibliography of research and publications in this field includes 1,945 reports on children and television, approximately 600 of which deal with the issue of TV violence.

7. As indicated above, numerous studies have demonstrated the harmful effects of media violence on children. We seek comment on any additional recent research in the field. We seek additional comment on the debate and how the private sector, members of the public, and academia are continuing to address the net effects of media violence. Is there a correlation between exposure to violence and aggressive behavior? If so, what are the implications? Are there particular harms children suffer as a result of exposure to violent programming? What other factors contribute to observed aggressive behavior? Do depictions of violence in video programming have an identifiably

different effect on children or adults than do descriptions of violence in other media, including print? How important is exposure to electronic media violence relative to other sources of exposure; *i.e.*, does watching Wile E. Coyote fall off a cliff in a cartoon have more or less an impact on a child's psyche than reading about Hansel and Gretel forcing a witch into a hot oven in Grimm's fairy tales? Are there countervailing benefits that flow from televised violence? Does the inclusion of violent events in fictional accounts help individuals understand and process actual incidences of violence they may encounter, experience, or learn of? Does violence serve any artistic function that should be considered, or are all depictions of violence necessarily gratuitous?

### C. Defining Violent or Excessively or Gratuitously Violent Programming for Public Policy Purposes

8. The above discussion assumes a well established definition of violence in terms of measuring both the amount and effect of violent programming. This is not necessarily the case. There are definitional difficulties because "not all violence is created equal." From a public policy standpoint, is there a need to define all violence, or simply gratuitous or excessive violence?

9. For the purpose of determining, as a general matter, whether a program contains violence, researchers have used broad definitions. For example, one researcher defined violence as "the overt expression of force intended to hurt or kill" in a content analysis conducted in the 1960s as part of the National Commission on the Causes and Prevention of Violence. The National TV Violence Study defined violence as "any overt depiction of a credible threat of physical force or the actual use of such force intended to physically harm an animate being or group of beings. Violence also includes certain depictions of physically harmful consequences against an animate being or group that occur as a result of unseen violent means." The UCLA Violence Reports defined violence as "the act of, attempt at, physical threat of or the consequences of physical force." As the 1997 *TV Violence Report* explains, such broad definitions "include violence, cartoon violence, slapstick violence—anything that involves or immediately threatens physical harms of any sort, intentional or unintentional, self-inflicted or inflicted by someone or something else." We seek comment on whether these definitions are appropriate.

10. At the same time, however, researchers have often attempted to identify the context, or qualitative nature, of a portrayal of violence. The *1997 TV Violence Report* explains:

While parents, critics and others complain about the problem of violence on television, it is not the mere presence of violence that is the problem. If violence alone was the problem and V-chips or other methods did away with violent scenes or programs, viewers might never see a historical drama like *Roots* or such outstanding theatrical films as *Beauty and the Beast*, *The Lion King*, *Forrest Gump* and *Schindler's List*. In many instances, the use of violence may be critical to a story that actually sends an anti-violence message. Some important stories, such as Shakespeare's *Hamlet*, the history of World War II or the life of Abraham Lincoln, would be impossible to convey accurately without including portrayals of violence.

For centuries, violence has been an important element of storytelling, and violent themes have been found in the Bible, *The Iliad* and *The Odyssey*, fairy tales, theater, literature, film and, of course, television. Descriptions of violence in the Bible have been important for teaching lessons and establishing a moral code. Lessons of the evils of jealousy and revenge are learned from the story of Cain and Abel. Early fairy tales were filled with violence and gruesomeness designed to frighten children into behaving and to teach them right from wrong. It was only when fairy tales were portrayed on the big screen by Walt Disney and others that the violence contained in the stories was substantially sanitized.

In other words the study suggests, "[t]he issue is not the mere presence of violence but the nature of violence and the context in which it occurs. Context is key to the determination of whether or not violence is appropriate." The National TV Violence Study similarly emphasizes that "the way in which violence is presented helps to determine whether a portrayal might be harmful to viewers."

11. But distinguishing one form of violence from another based on context is a difficult exercise. Again, in explaining how the researchers involved in the UCLA violence studies determined which programs raised "concerns" about violence, the *1997 TV Violence Report* illustrates the problem:

No matter how well the definitions were drawn, there would be those who felt that some aspect of violence should or should not have been included. Almost everyone has his or her own definition of violence. People have often attempted to validate or invalidate quantitative research based on how much the scholar's definition resembles their own. Animation for children is a good example of this phenomenon. Consider a cartoon in which a character is hit over the head with a two-by-four, a funny sound effect is heard, the character shakes his head and merrily continues on his way. Some people might

consider this the worst type of violence because it is unrealistic, there are no consequences and it might encourage children to imitate it precisely because it shows no consequences. Others feel they watched these cartoons growing up and did not imitate them because they knew these cartoons obviously were not "real." Scholars have had to decide whether to count this type of violence and usually have included it. Anyone who feels this inclusion is silly would reject the entire definition and might ignore the conclusions of the research. The same is true with slapstick humor. Sports programming provides yet another example. Many feel that violent spectator sports such as football or hockey make violence an acceptable or even desirable part of American life. Whether to count unrealistic cartoon violence, slapstick humor or sports within a definition of violence is itself a difficult decision.

We seek comment on these issues.

12. Against the backdrop of these definitional difficulties, what kinds of portrayals of violence are of greatest concern, particularly with respect to children? The National TV Violence Study states that "[i]f the consequences of violence are demonstrated, if violence is shown to be regretted or punished, if its perpetrators are not glamorized, if the act of violence is not seen as justifiable, if in general violence is shown in a negative light, then the portrayal of violence may not create undesirable consequences. But if violence is glamorized, sanitized or made to seem routine, then the message is that it is an acceptable, and perhaps even desirable, course of action." More specifically, the National TV Violence Study indicates that the portrayals that pose the greatest risk for learning aggression contain attractive perpetrators, morally justified reasons for engaging in violence, repeated incidents of violence that appear realistic, violence that is rewarded or unpunished, and violence that does not show harm or pain to a victim or is presented in a humorous context. According to the study, portrayals that pose the greatest risk for desensitization contain repeated incidents of violence or violence presented in a humorous context. Portrayals that pose the greatest risk for audience fear contain attractive victims, violence that appears unjustified, repeated and realistic, and unpunished. In addition, the *1997 TV Violence Report* provides as examples of "inappropriate or improper uses of violence" those "which glorify the act or teach that violence is always the way to resolve conflict." That report further states that "the consequences of violence should be shown and those persons using violence inappropriately should be punished. We would also

note that when violence is used realistically, it is more desirable to accurately portray the consequences than to sanitize the violence in a manner designed to make it acceptable." On the other hand, some might argue that a television program such as "The Three Stooges" does not pose a great risk to children even if the violence is presented humorously and without obvious consequences. Similarly, some might argue that more graphic violence is potentially more harmful to children than violence in which, for example, a body falls from a gunshot wound but the wounds are not shown. We seek additional comment on the types of portrayals that are of greatest concern, particularly with respect to children.

13. How much televised violence is portrayed in a way that is most likely to harm children? For example, the National TV Violence Study states that 40% of the violent incidents studied were initiated by characters with qualities that make them good role models; 70% of violent scenes do not show penalty or remorse for violence at the time it occurs; roughly half of violent incidents do not show physical harm or pain; at least 40% of violent scenes include humor. The UCLA reports also identify particular shows that raised "concerns" about violence, according to a variety of contextual factors. We seek additional information on what type of programming is potentially the most damaging, and how frequently it occurs.

14. As we consider definitional issues, we also ask commenters to identify with precision the age groups that qualify as "children" when they discuss whether violent programming is harmful to them. Some scholarship suggests that children under the age of seven or eight are especially impressionable because they have difficulty distinguishing between fantasy and reality. We seek additional information on research that evidences and explains the particular age groups that are of concern.

15. Finally, in the context of possible regulation in this area, we note that members of the House Commerce Committee have asked the Commission to examine whether it would be in the public interest for the agency to define "excessively violent programming that is harmful to children," and if so, how we might do so. We also seek comment on how such a standard could be implemented in a manner that is both clear to the industry and practical to administer. We seek comment on these issues to be responsive to the Committee's concerns.

#### *D. TV Parental Guidelines and V-Chip*

16. A regulatory system already exists to help parents and viewers control the exposure of children to media violence. The television industry rates programming using the TV Parental Guidelines, and encodes programming accordingly; in addition, the Commission has required that, by January 1, 2000, all television sets manufactured in the United States or shipped in interstate commerce with a picture screen of thirteen inches or larger be equipped with a "V-chip" that can be programmed to block violent, sexual, or other programming that parents believe harmful to their children.

17. We seek comment on the status of the existing rating and V-chip system as tools to help parents and viewers screen out violence. To what extent is programming in fact rated, using both the age-based ratings, and the additional content labels for violence? Are the ratings consistent and accurate? A 1998 Kaiser Family Foundation study indicates that, during the first year the ratings system was in use, only 20% of programs that contained violence, sexual material, or adult language actually used the appropriate content label. This same study found that 79% of violent programming is not specifically rated for violence." Moreover, a 2001 Kaiser Family Foundation study indicates that 40% of parents who use the rating system do not believe programs are rated accurately. According to that study, more than half of all parents use the ratings system to decide what programming that their children may watch. In light of these findings, we seek comment on whether the lack of a content rating for violence renders ineffective any technology-based blocking mechanism, built into television sets, designed to limit violent programming.

18. We seek comment on these findings of the Kaiser Family Foundation. Is more recent information available on these issues? To what extent is use being made of the rating system? Do the TV Parental Guidelines now in use give parents sufficient information to make educated programming decisions for their children?

19. We also seek comment on the usefulness of the V-chip. Although as many as 40% of parents have television sets equipped with a V-chip, more than half of them are not aware of it, and two thirds of those who are do not use it. The Kaiser Foundation, in a recent study, has found that parents have not

used the V-Chip even after a concerted effort to inform them about it. We seek comment on recent initiatives to educate parents about the V-Chip's availability. What can be done to enhance the usefulness of the V-chip? Are there ways to improve the ratings system?

#### *E. Possible New Regulatory Solution: "Safe Harbor"*

20. If the TV Parental Guidelines and V-chip are not adequate to protect children from any identifiable dangers of exposure to media violence, what other mechanisms are available? In their recent letter, members of the House Commerce Committee specifically asked how the Commission "might restrict broadcast of 'excessively violent programming that is harmful to children' during the hours when children are likely to be a substantial part of the viewing audience, so that it might supplement the TV ratings system, such as by creating time of day restrictions and measures that facilitate a consumer's use of the television ratings system." The legislation pending in Congress also involves a "safe harbor" provision and the Senate has adopted language to that effect.

21. A starting point for considering a "safe harbor" solution is our indecency rules. Indecent speech is entitled to constitutional protection, and so cannot be prohibited entirely. However, to protect children, the Commission's rules prohibit the broadcast of indecent speech from 6 a.m. to 10 p.m., when children are likely to be a substantial part of the viewing audience. The Commission may fine television and radio stations for broadcasting indecent content during this time period. At other times of the day, during the "safe harbor" of the late night and early morning hours, the Commission permits the broadcast of such speech. Obscene speech on cable and other subscription television services, as well as on broadcast services, is a criminal offense at all hours. Indecency regulation is only applied to broadcast services. Would it be in the public interest to have "safe harbor" restrictions on violent programming content? Should it apply to the broadcast medium only?

22. Alternatively, the Congress or the Commission could tie the application of any "safe harbor" to the television ratings system, as the bill pending before the Senate Commerce Committee does. That bill would declare it "unlawful for any person to distribute to the public any violent video programming not blockable by electronic means specifically on the basis of its violent content when

children are reasonably likely to comprise a substantial portion of the audience." The Senate bill would also require the Commission, upon finding in ongoing review that the television ratings system and the V-chip were not accomplishing their intended purposes, to "prohibit the distribution of violent video programming during the hours when children are reasonably likely to comprise a substantial portion of the audience." In other words, the bill would restrict violent programming to a "safe harbor" only if the programming has not been rated violent, or if the Commission finds that the ratings system and V-chip are not accomplishing their intended purpose. The bill does not distinguish between broadcast and non-broadcast media, and specifically notes that "[b]roadcast television, cable television, and video programming are (A) uniquely pervasive presences in the lives of all American children; and (B) readily accessible to all American children." We seek comment on whether the V-Chip is accomplishing its intended purpose, and if not, whether the safe harbor approach represents the least restrictive means to protect children.

#### *F. Statutory and Constitutional Issues*

23. We seek to explore here the bounds of permissible action, both regulatory and statutory, in light of the relevant statutory and constitutional constraints. In their recent letter, members of the House Commerce Committee have asked whether the Commission currently has the authority to adopt a "safe harbor" for the broadcast of violent programming, "or whether Congress would need to provide the Commission with statutory authority to do so, and whether Congress could provide the FCC with that authority in a constitutional fashion." Members of the House Commerce Committee have also asked about constitutional limitations on our ability to define the phrase "excessively violent programming that is harmful to children," or to create a "safe harbor" for such programming. If such a mechanism were adopted, should there be an exception for news or other types of unrated programs? Should there be an exception for cultural, historical, or artistic merit?

24. The Communications Act gives the Commission broad authority to regulate the broadcast medium as the public interest requires. In order to grant a radio license, Title III of the Act requires the Commission to determine "whether the public interest, convenience, and necessity will be served by the granting of such

application,” and to issue a license only upon making an affirmative finding. Title III likewise directs the Commission, “as the public interest, convenience, and necessity requires,” to “[m]ake such rules and regulations and prescribe such restrictions and conditions, not inconsistent with law, as may be necessary to carry out the provisions of this Act. \* \* \*” However, Section 326 in Title III also states: “Nothing in this Act shall be understood or construed to give the Commission the power of censorship over the radio communications or signals transmitted by any radio station, and no regulation or condition shall be promulgated or fixed by the Commission which shall interfere with the right of free speech by means of radio communication.” Is the Commission’s general public interest authority sufficiently broad to regulate any form of violent programming, in light of Section 326? Does the DC Circuit’s recent decision in *Motion Picture Association of America v. FCC* (“MPAA”) suggest that the Commission’s public interest authority does not extend to regulation of violent program content?

25. The statutory prohibition against “obscene, indecent, or profane language,” upon which our ban on obscene speech and safe harbor for indecent and profane speech are based, does not implicate Section 326. Given the interest of members of the House Commerce Committee in creating a “safe harbor,” and its question whether we currently have the authority to adopt such a mechanism to regulate violence, could the Commission expand its definition of indecency to include violent programming? The Commission has traditionally defined indecency in terms of sexual or excretory organs and activities, but the Supreme Court has concluded that the term indecent “merely refers to nonconformance with accepted standards of morality” and that “neither our prior decisions nor the language or history of § 1464 supports the conclusion that prurient appeal is an essential component of indecent language.” Certain commentators go even further and argue that violent programming qualifies as obscene speech, which is not entitled to any First Amendment protection. In this regard, we note an opinion of the U.S. Court of Appeals for the Seventh Circuit declining to conflate obscenity and violence in the context of a particular ordinance regulating violent video games, yet suggesting that a demonstrated link between exposure to such games and deleterious effects

could possibly provide a basis for regulation of violent “pictures.” We recognize that an interpretation of indecency or obscenity as encompassing violence would be novel, but we seek to determine the scope of existing standards to regulate violent programming, as members of the House Commerce Committee request.

26. How does Title V of the 1996 Act, entitled “Obscenity and Violence,” affect the Commission’s general authority in this area? Section 551 directed the Commission to prescribe “guidelines and recommended procedures for the identification and rating of video programming that contains sexual, *violent, or other indecent material* about which parents should be informed before it is displayed to children,” if the television industry itself did not establish “voluntary rules” for rating such programming that were “acceptable to the Commission.” Does the reference to “violent or other indecent material” indicate that indecency encompasses violence, or otherwise suggest that Congress intended to empower the agency to regulate violent programming? Was the Commission’s authority under this provision at an end once it found the industry guidelines acceptable? In other words, does the statutory scheme suggest that Congress has occupied the field of media violence, such that the Commission cannot act without new legislation?

27. What is the extent of the Commission’s current authority over cable television in this area? Title VI of the Act states that “[a]ny Federal agency, State, or franchising authority may not impose requirements regarding the provision or content of cable services, except as provided in this title.” As indicated above, transmission of obscene and other speech is “unprotected by the Constitution of the United States” and is a criminal offense. Title VI also states that, “[i]n order to restrict the viewing of programming which is obscene or indecent, upon the request of a subscriber, a cable operator shall provide (by sale or lease) a device by which the subscriber can prohibit the viewing of a particular cable service during periods selected by that subscriber.” Title VI further states that “[u]pon request by a cable service subscriber, a cable operator shall, without charge, fully scramble or otherwise fully block the audio and video programming of each channel carrying such programming so that one not a subscriber does not receive it.” The Supreme Court has found this latter provision could be a less restrictive means than a “safe harbor” or “time

channeling” requirement to protect children from sexually explicit programming. We seek comment on whether the Commission has authority to regulate violent programming on cable television other than as specifically provided in Title VI. Does the Commission have broader statutory authority to regulate violent programming on DBS and other non-broadcast subscription services, which are not covered by Section 544(f), than on cable services?

28. Assuming the Commission has or is granted statutory authority to regulate violent programming, what constitutional limitations apply? For example, given the definitional issues discussed above, how could Congress or the Commission define some form of violent programming in a way that is not unconstitutionally vague or overbroad? In addition, what standard of constitutional review should apply to broadcast regulation in this area? To non-broadcast? Even if protecting children from some form of violent programming is deemed a sufficiently important government interest, is a “safe harbor” the appropriate and most tailored means to accomplish that public policy? Given the mechanisms available to cable subscribers to block programming under Title VI, could a “safe harbor” constitutionally be applied to cable services? We seek comment on how Congress might legislate and the Commission might regulate in this area, consistent with applicable constitutional principles.

### III. Positive Impact of Certain Television Programming

29. We recognize that television programming may have a positive influence on individual behavior, especially educational and informational material directed at children. The literature suggests that consumption of educational television programming correlates positively to children’s school preparedness and may also encourage beneficial social skills and behavioral development. Are there recent studies analyzing the pro-social effects of television programming that we should be aware of? What broadcast or non-broadcast services carry such material? How are parents made aware that such programming is available? We seek comment on what actions Congress or the Commission may take to encourage more programming choices that have a positive effect on children’s development.

### IV. Administrative Matters

30. *Ex Parte Rules*. Pursuant to section 1.1204(b)(1) of the Commission’s

rules, 47 CFR 1.1204(b)(1), this is an exempt proceeding. *Ex parte* presentations are permitted, and need not be disclosed.

31. *Comments and Reply Comments.* Pursuant to sections 1.415 and 1.419 of the Commission's rules, 47 CFR 1.415, 1.419, interested parties must file comments on or before September 15, 2004, and reply comments on or before October 15, 2004. Comments may be filed using the Commission's Electronic Comment Filing System (ECFS) or by filing paper copies. *See Electronic Filing of Documents in Rulemaking Proceedings*, 63 FR 24121 (1998). Accessible formats (computer diskettes, large print, audio recording, and Braille) are available to persons with disabilities by contacting Brian Millin, of the Consumer & Governmental Affairs Bureau, at (202) 418-7426, TTY (202) 418-7365, or at [brian.millin@fcc.gov](mailto:brian.millin@fcc.gov).

32. Comments filed through the ECFS can be sent as an electronic file via the Internet to <http://www.fcc.gov/e-file/ecfs.html>. Generally, only one copy of an electronic submission must be filed. In completing the transmittal screen, commenters should include their full name, U.S. Postal Service mailing address, and the applicable docket or rulemaking number. Parties may also submit an electronic comment by Internet e-mail. To get filing instructions for e-mail comments, commenters should send an e-mail to [ecfs@fcc.gov](mailto:ecfs@fcc.gov), and should include the following words in the body of the message, "get form <your e-mail address>." A sample form and directions will be sent in reply.

33. Parties who choose to file by paper must file an original and four copies of each filing. Filings can be sent by hand or messenger delivery, by commercial overnight courier, or by first-class or overnight U.S. Postal Service (although we continue to experience delays in receiving U.S. Postal Service mail). The Commission's contractor, Best Copy and Printing, Inc., will receive hand-delivered or messenger-delivered paper filings for the Commission's Secretary at Suite CY-B402, 445 12th Street, Washington, DC 20554. All hand deliveries must be held together with rubber bands or fasteners. Any envelopes must be disposed of before entering the building. Commercial overnight mail (other than U.S. Postal Service Express Mail and Priority Mail) must be sent to 9300 East Hampton Drive, Capitol Heights, MD 20743. U.S. Postal Service first-class mail, Express Mail, and Priority Mail, should be addressed to 445 12th Street, SW., Washington, DC 20554. All filings must be addressed to the Commission's

Secretary, Office of the Secretary, Federal Communications Commission.

34. *Additional Information.* For additional information on this proceeding, contact Ben Golant at 418-7111.

#### V. Ordering Clause

35. Accordingly, *it is ordered that*, pursuant to the authority contained in sections 4(i), 303(g), 303(r), and 403 of the Communications Act, 47 U.S.C. 154(i), 303, and 403, this Notice of Inquiry is adopted.

Federal Communications Commission.

**William F. Caton,**

*Deputy Secretary.*

[FR Doc. 04-18467 Filed 8-11-04; 8:45 am]

**BILLING CODE 6712-01-P**

### FEDERAL ELECTION COMMISSION

#### Sunshine Act; Meeting

**DATE AND TIME:** Tuesday, August 17, 2004 at 10 a.m.

**PLACE:** 999 E Street, NW., Washington, DC.

**STATUS:** This meeting will be closed to the public.

#### ITEMS TO BE DISCUSSED:

Compliance matters pursuant to 2 U.S.C. 437g.

Audits conducted pursuant to 2 U.S.C. 437g, 438(b), and Title 26, U.S.C.

Matters concerning participation in civil actions or proceedings or arbitration.

Internal personnel rules and procedures or matters affecting a particular employee.

**DATE AND TIME:** Thursday, August 19, 2004 at 10 a.m.

**PLACE:** 999 E Street, NW., Washington, DC (ninth floor).

**STATUS:** This meeting will be open to the public.

#### ITEMS TO BE DISCUSSED:

Correction and Approval of Minutes.

*Advisory Opinion 2004-19:*  
DollarVote by Andrew W. Mitchell, President.

*Advisory Opinion 2004-26:*  
Representative Gerald C. Weller and Ms. Zury Rios Sosa by counsel, Jan Witold Baran.

Final Rules on Political Committee Status.

Notice of Availability for a Petition for Rulemaking filed by Robert F. Bauer.

Routine Administrative Matters.

#### PERSON TO CONTACT FOR INFORMATION:

Mr. Robert Biersack, Acting Press Officer, Telephone: (202) 694-1220.

**Mary W. Dove,**

*Secretary of the Commission.*

[FR Doc. 04-18517 Filed 8-10-04; 10:43 am]

**BILLING CODE 6715-01-M**

### FEDERAL RESERVE SYSTEM

#### Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et seq.*) (BHC Act), Regulation Y (12 CFR Part 225), and all other applicable statutes and regulations to become a bank holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a bank or bank holding company and all of the banks and nonbanking companies owned by the bank holding company, including the companies listed below.

The applications listed below, as well as other related filings required by the Board, are available for immediate inspection at the Federal Reserve Bank indicated. The application also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the standards enumerated in the BHC Act (12 U.S.C. 1842(c)). If the proposal also involves the acquisition of a nonbanking company, the review also includes whether the acquisition of the nonbanking company complies with the standards in section 4 of the BHC Act (12 U.S.C. 1843). Unless otherwise noted, nonbanking activities will be conducted throughout the United States. Additional information on all bank holding companies may be obtained from the National Information Center website at [www.ffiec.gov/nic/](http://www.ffiec.gov/nic/).

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than September 7, 2004.

**A. Federal Reserve Bank of Atlanta**  
(Sue Costello, Vice President) 1000 Peachtree Street, N.E., Atlanta, Georgia 30309-4470:

1. *YBHC Corp.*, Ponchatoula, Louisiana; to become a bank holding company by acquiring 100 percent of the voting shares of Your Bank, Ponchatoula, Louisiana.