

UNITED STATES FEDERAL COMMUNICATIONS COMMISSION

In the Matter of:)
)
EN BANC HEARING ON THE PUBLIC)
INTEREST OBLIGATIONS OF TV)
BROADCAST LICENSES)

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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D. C. 20554

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INTEREST OBLIGATIONS OF TV)
BROADCAST LICENSES)

Federal Communications
Commission
445 Twelfth Street, N.W.
Washington, D. C.

Monday,
October 16, 2000

The parties met, pursuant to the notice of the
Commission at 9:12 a.m.

APPEARANCES:

On Behalf of the FCC:

WILLIAM KENNARD, CHAIRPERSON
SUSAN NESS, COMMISSIONER
HAROLD FURCHTGOTT-ROTH, COMMISSIONER
GLORIA TRISTANI, COMMISSIONER
MICHAEL K. POWELL, COMMISSIONER

Panelists:

JAMES P. STEYER
ANNE SWEENEY
KATHRYN MONTGOMERY
SUSAN ALTMAN
PATRICIA NUGENT
PATTI MILLER
VICKY RIDEOUT
NADINE STROSSEN
ROBERT CORN-REVERE
DALE KUNKEL
JOANNE CANTOR
HENRY JENKINS
ROBERT PETERS
PAUL SCHROEDER
SISTER MARY PARKS

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APPEARANCES (CONTINUED):

Panelists (Continued):

**PAUL TAYLOR
JAMES GOODMAN
JAMIN RASKIN
PAUL LaCAMERA
HENRY GELLER**

P R O C E E D I N G S

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(9:12 a.m.)

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CHAIRMAN KENNARD: Good morning and welcome to this hearing of the Federal Communications Commission on the public interest obligations of television broadcast licensees. Television is the most powerful, ubiquitous medium in the history of the world. Seventy-five percent of Americans watch local broadcast television. Children spend on average three hours in front of the television set every single day.

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Clearly, television is a medium that we all have to care about because it is one that shapes our lives. It shapes our outlooks. It shapes what our children learn. And we have to be concerned about the images that are bombarding our homes and our families every single day.

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Since I have been at the Commission in this particular job, I have received lots of input from parents from all over the country. When I travel outside of Washington, invariably people will come up to me and ask me what are you doing about television. And frankly, in recent years, there has been increasing concern in our country about what parents are seeing on television. There is an increasing concern about the coarsening of broadcast standards, more language and inappropriate images in prime time, more violence, more sex.

1 And when I am in Washington, I often get lots of
2 e-mails from parents from around the country. And they ask
3 me, well, what are you doing about television? How can we
4 protect our families from some of the images we don't want
5 our children to see?

6 And I have had the opportunity to bring some of
7 these concerns to leaders of the broadcast industry. And I
8 relay some of these issues that I hear. And frankly, a lot
9 of the answers that I get are not very satisfying. I am
10 hearing a lot of finger-pointing. Well, it's not our
11 problem. Don't make us the whipping boy. It's not our
12 fault. Blame the cable television industry. Blame the gun
13 industry. Blame the lack of enforcement on drug control.

14 But frankly, those answers are not satisfying to
15 parents and they are certainly not satisfying to me because
16 the fact is that television is different today. There is a
17 question of standards. There are fewer PSAs. There is less
18 involvement between broadcasters and their communities. And
19 part of that is a result of regulatory changes by this
20 Agency, the great movement of deregulation in the late '70s
21 and early '80s.

22 But the fact remains that many, many people around
23 the country are concerned about television today. And the
24 fact also remains that when the television industry decides
25 that they are going to make a change for the better in our

1 country, it can do remarkable things.

2 Many of you remember the tremendous PSA campaigns
3 that this industry has embarked on over the past couple of
4 decades. Remember "Buckle Up for Safety" and "Only You Can
5 Prevent Forest Fires" and the anti-drug abuse campaigns.
6 These things really do change America.

7 And the television industry certainly has a
8 responsibility when it comes to making sure that all
9 Americans feel that they have a place in this society. I am
10 talking about the image of minorities on television today,
11 an issue that I am particularly concerned about.

12 I remember in my own life very vividly when in the
13 1960s "Eye Spy" was the first network television show that
14 starred an African American in a prime-time role. And that
15 was a huge deal in the African American community. And, of
16 course, since that time, we have made a lot of progress.
17 There are many more starring roles of African Americans and
18 other minorities.

19 But there is still in our country a sense of
20 unease among many minority communities that we are not being
21 represented on television in positive roles and we are not
22 seeing the kinds of positive role models that we want our
23 children to see. Indeed, we are having a very, very
24 important debate in this country between the civil rights
25 community and the networks to try to remedy that particular

1 problem.

2 Now, the reason why we are having this hearing
3 today is because the FCC has a crucial role in responding to
4 many of these concerns around the country. Broadcasters are
5 public trustees as many broadcasters like to point out to me
6 in my discussions with them. But there is a concern at
7 least on my part, and I know a number of people with the
8 Commission around the country, that nobody really knows what
9 that means. What does it mean to be a public trustee of the
10 Agency, a public trustee of the nation's airwaves?

11 Well, I believe it is important that we give some
12 context to what that means and define it a little better
13 because I think, frankly, we have lost a little focus on
14 what it means. I talk to many broadcasters. And many times
15 they say, well, it means whatever we say it means. We are
16 serving the public interest, can't you see.

17 And I know many of them make these arguments with
18 the best of intentions. And they are well meaning. And
19 they do good things in their communities. And I commend
20 them for it.

21 But frankly, being a public trustee is not just
22 what the industry says it should mean. It should mean
23 something that we can collectively agree on in constructive
24 dialogue between industry and the public advocates and the
25 FCC. And that is what this hearing is all about today. I

1 know one thing. Being a public trustee certainly doesn't
2 mean that you just get free spectrum anymore. It must mean
3 more than that.

4 Well, today I am pleased that we have a lot of
5 very fine panelists who are going to present on these very
6 important issues. And we have a very packed agenda today.
7 We are going to hear about a lot of issues. Hopefully at
8 the end of the day, we will have a much better understanding
9 of at least what many people -- how many people would define
10 what it means to be a public trustee of the airwaves.

11 I certainly have been fairly vocal on this issue.

12 And I have supported a voluntary code of conduct for
13 broadcasters. I have urged broadcasters to be more
14 aggressive in supporting the V-chip so that parents can be
15 empowered to screen out some of the harmful images that
16 flood into their homes and living rooms.

17 And we have a number of issues that we want to
18 cover today. And in closing, I want to thank my colleagues
19 because what I found in this job is that everyone here has
20 slightly different issues that they would like to emphasize.

21 And so it was a challenge to pull together a panel that
22 would accommodate everybody's concerns.

23 Some folks are more passionate about affirmative
24 messages for children on the airwaves. Others are more
25 concerned about screening out the harmful images of sex and

1 violence. And I think it is fair to say that some of my
2 colleagues are skeptical about doing anything in this area
3 and are outspoken about that.

4 But I wanted to commend my colleagues for
5 participating and providing input. And I think the
6 panelists that you will hear today reflect the diverse
7 viewpoints of the Agency before you.

8 Just a couple of housekeeping matters. We have a
9 new technology here at the FCC we are going to use today.
10 We have the time clock for the first time. And it is an
11 effort to make sure that everybody stays within their
12 allotted time.

13 Each panelist will have five minutes to make his
14 or her initial presentation. The time remaining will be
15 indicated by the lights on the podium. The light will be
16 green for four minutes, yellow for one minute and then red
17 when the speaker has exceeded five minutes. And I have been
18 told to enforce this aggressively.

19 After each panel, we will have a period for
20 question and answer from the bench. And time permitting, we
21 are also going to try to allow people from the general
22 public to ask questions of the panelists, as well. And we
23 have some microphones on the aisles for that purpose.

24 Well, with that, I will pass the gavel to my
25 colleague, Commissioner Ness, and look forward to a very

1 productive day today. Commissioner Ness.

2 COMMISSIONER NESS: Thank you very much. First of
3 all, I would like to welcome all of the panelists who have
4 come today to talk about what the role of broadcasting
5 society is all about. We are going to be examining all day
6 the public interest obligations of broadcasters,
7 particularly as we painstakingly enter the digital world.

8 Members of Congress, the public and others have
9 increasingly decried the rapidly declining standards of
10 broadcast television, especially the impact that it is
11 having on our children. And they have focused attention on
12 the pledge that broadcasters have taken to serve in the
13 public interest. We have gotten loads of letters and e-
14 mails on this topic.

15 A couple of years ago, the Clinton-Gore
16 administration convened a panel to examine those
17 responsibilities. There have been a hoard of studies that
18 have been done. The Kaiser Family Foundation, among others,
19 has contributed greatly to our understanding of what the
20 effect of all of these bombarding messages is on our
21 children.

22 And as Congress noted, the FCC provides an
23 invaluable forum, an invaluable opportunity for us as a
24 national community to examine these issues and to try to
25 come up with some sense of where we as a national community

1 are as far as the broadcast medium is concerned.

2 So today, we are going to be examining how
3 broadcasters are fulfilling their responsibilities. We are
4 going to be reviewing how effective our rules and guidelines
5 are to ensure that there is, for example, ample educational
6 and informational children's programming available on
7 commercial television. And we are going to be assessing
8 what steps we can take to ensure that the public is well
9 served.

10 The first panel, how do we ensure the goals of the
11 1990 Children's Television Act are realized? There, I am
12 going to be very interested in seeing whether there is
13 quality educational programming that is now being provided
14 on the commercial spectrum; whether our rules which we
15 revised in 1996 which empower parents to help sort through
16 the offerings on television, whether or not this is
17 effective to allow parents to know what programs are
18 educational and informational so that they could assemble
19 their children to watch; whether -- so these are some of the
20 issues that I hope that we can explore in the first panel.

21 For the second panel, how can we as a national
22 community address the tidal wave of gratuitous sex and
23 violence on television today, especially during the hours
24 that children are in the audience? And there, I hope that
25 we will have an opportunity to see what is being done as far

1 as a voluntarily code of conduct for broadcasters is
2 concerned. It seems to me that this is a very good way for
3 broadcasters to address the situation themselves, we as a
4 national community again.

5 The third panel looking at the special role of
6 television in our society as we go into a digital
7 environment. What -- how can this digital medium be best
8 used to serve in the public interest?

9 I would like to close my opening comments by
10 revisiting something that I said at the time of the
11 Littleton massacre back in 1999. At that time, I noted that
12 in recent days, the images of violence have become the focus
13 of a nationwide attention and debate. The massacre has led
14 many to raise questions about the role of media, electronic
15 games and the Internet and portraying violence in a way that
16 desensitizes our children and perhaps contributes to such
17 violence.

18 We see the tragedy of Columbine High and ask
19 ourselves how can we provide a safe and sane environment for
20 our children. How can we deal with the pervasive and
21 gratuitous violence? Sacrificing our beloved First
22 Amendment is not the answer.

23 Rather, as parents, each of us must assume
24 personal responsibility in helping our children make choices
25 about the programming and movies that they watch and the

1 games they play. And as program creators, broadcasters,
2 cable operators and corporate leaders must assume personal
3 responsibility as members of a national community and take
4 the interests of that community at heart.

5 If everyone involved in the programming food chain
6 would ask is this a program that I would want my children to
7 watch, would I give it my personal seal of approval, and
8 then acted based upon the answers to those questions, I
9 would expect that we would see meaningful changes in what is
10 out there today.

11 With the right tools, information and feedback,
12 parents and industry can work together to make a difference.

13 And that is, for me, what the substance of today's
14 discussion is all about. Thank you very much.

15 CHAIRMAN KENNARD: Thank you, Commissioner Ness.
16 Commissioner Furchtgott-Roth.

17 COMMISSIONER FURCHTGOTT-ROTH: Thank you, Mr.
18 Chairman. I, too, want to welcome the many experts we have
19 before us today. And I want to thank my colleagues. Mr.
20 Chairman, I know that you and Commissioner Ness and
21 Commissioner Tristani feel very strongly about many of the
22 issues before us today and as do all of us.

23 Commissioner Tristani has particularly led the
24 efforts on focus on children. She mentions this at many
25 different hearings. Parenting is not easy in America. The

1 images and messages that confront our children are
2 disturbing, images that make parents cringe, messages of any
3 and all types. And I am just talking about the checkout
4 counter at your local grocery store.

5 You see it everywhere, store windows at department
6 stores, magazines, news stories in newspapers. The internet
7 is full of anything and everything both good and shall we
8 say not so good.

9 Access to these images and messages is ubiquitous
10 in America. You will find them at your local public library
11 without any restrictions. You will find them at your local
12 school library. You will find them in your school
13 classrooms. You will find them at the malls. You will find
14 them in stores. You will find them anywhere your children
15 are, any hour of the day. And I have yet to even mention
16 television.

17 There is a sense among many that there is
18 something wrong in America with our society. There is
19 licentious behavior, permissive attitudes, callous
20 indifference. There are childhoods lost. There are
21 children growing up much too soon. Some parents wish that
22 we could go back a generation or more when there was less
23 fear about what information was available. But we cannot go
24 back. We must deal with the problems that we have today.

25 But who should decide? There are two broad

1 choices. One is the government can issue new regulations,
2 can sensor a content, can use the public bully pulpit to
3 inhibit speech or alternatively the problems our society
4 faces can be solved by individuals through parenting,
5 through local organizations complaining about the content,
6 by going to schools and libraries and saying we don't want
7 these magazines here, we don't want this content here, this
8 is the information we want our children to have access to
9 and nothing more.

10 There are deeds of paternalism and judgement that
11 go on every day in America. And these deeds are done by
12 individuals, parents telling their children this is right
13 and this is wrong because it is the deed point of the parent
14 or the guardian in saying this is where we will go and this
15 is where we will not go.

16 Many say that the problem lies with broadcasters,
17 that what we need is greater public interest obligations on
18 broadcasters. To the extent broadcasters ever had any
19 inescapable influence on the American public, those days are
20 long gone. Broadcasters account for an ever increasingly
21 small portion of the viewership of the American audience, of
22 those who even watch television. And many to date turn to
23 the internet or to other sources of information.

24 Moreover, the FCC already has standards for
25 indecency in television. How much further can we go? All

1 FCC licensees are public trustees. All FCC licensees have
2 public interest obligations, not just in the broadcast area.

3 You can take a cell. phone. The company that provides the
4 service has hundreds, if not thousands of FCC licenses.
5 What sort of speech goes on on these phones? Who knows.

6 But we don't put additional public interest
7 obligation on the carriers who provide this service, the
8 licenses many of which will receive for free. Of the
9 hundreds of thousands of FCC licenses, only a handful were
10 ever really paid for. And yet a lot of attention focuses
11 narrowly on broadcasters.

12 I think there has to be another answer. And I
13 think the answer ultimately is what makes America great,
14 what makes America different. And part of that goes back to
15 the First Amendment. We in America must be a light unto the
16 world. We must say at all times we are individuals and we
17 are powerful in governments.

18 Our problems are ultimately solved by individuals.

19 But the government is here to help and we will help to the
20 extent we can. But that help must not involve censorship.
21 It must not involve propaganda. It must not involve
22 regulation that serves no purpose.

23 These are the crutches of other countries around
24 the world. They use censorship and propaganda daily. And
25 when their people topple those governments as they have

1 recently done in Serbia, the first thing they do is they go
2 and they take over the broadcast station and they say never
3 again.

4 We must be better in America. We must rely on the
5 First Amendment to say today and at all times that
6 individuals are greater than their government, that the
7 government trusts the people and does not distrust them to
8 the extent they say we will restrict what happens, what
9 information you have. It is for individuals to restrict
10 that information. And ultimately, that is how we must go.
11 Thank you, Mr. Chairman.

12 CHAIRMAN KENNARD: Thank you, Commissioner.
13 Commissioner Powell.

14 COMMISSIONER POWELL: Thank you, Mr. Chairman. I
15 am pleased to be here today. I think it is useful to
16 provide a public forum to discuss the range of issues that
17 are presented by television today. Certainly, in this year,
18 television is a much more rich and complex medium than it
19 has ever been. It can be found over many more mediums and
20 distribution vehicles than ever before.

21 And certainly while there has been a growth in
22 some of the darker sides of the images and information that
23 we and our children see, there has also been an
24 extraordinary explosion of quality and entertainment and
25 information of value. And I think it is important to

1 provide a public forum to explore the benefits and
2 blessings, as well as the dark sides of those issues.

3 It is also important, however, to provide in the
4 context of a hearing a struggle with the historic tension
5 between the public trustee model and the limitations of that
6 model as afforded by both the statute and the First
7 Amendment. And this has always been a complex and difficult
8 task. And I think we should be as committed to exploring
9 lessons within its boundaries, as well.

10 I would like to emphasize what I am willing to
11 entertain and what I am not. I am particularly reluctant,
12 very reluctant to ever aim our regulatory arrows at content
13 itself. The statute itself says that censorship is not
14 permitted and it is not our charge.

15 In reviewing recently a discussion in the Gore
16 Commission report about the parameters of the Agency's
17 authority, I noted a quote from the Supreme Court case of
18 Columbia v. The DNC which reminded us of our limits. And I
19 just thought I would read that quote.

20 "The FCC's oversight responsibilities do not grant
21 it the power to ordain any particular type of programming
22 that must be offered by broadcast stations. For although
23 the Commission may inquire of licensees what they have done
24 to determine the needs of the community they propose to
25 serve, the Commission may not impose upon them its private

1 notions of what the public ought to hear."

2 And following this Commission principle, there is
3 Constitutional principle the Commission has long been
4 careful not to interfere with the editorial judgements of
5 broadcasters. And I hope today doesn't signal a turn in
6 that direction, as I don't think that it does.

7 What I do believe is legitimate and I think an
8 appropriate area of inquiry is looking for ways to improve
9 and enhance the power of consumers to make the choices that
10 they wish to make in a free society. It is one of the
11 reasons I think efforts like labeling, disclosure of
12 content, V-chip and other such measures are legitimate uses
13 of the government-private partnership in an attempt to
14 empower consumers to make those choices.

15 But I do need to say something further about the
16 limits of that in the First Amendment. In your speech this
17 week, Mr. Chairman, you talked about the importance of
18 driving the DTV transition. And while I might take issue
19 with some specifics, I applaud you for trying to improve the
20 pace of that intention.

21 I do have concerns, however, when we suggest that
22 television serves principally to enhance democracy. It
23 seems to me when the framers talked about minting democracy,
24 the only discussion they had about the role of the media
25 that existed at the time was to agree to which they were

1 limited to power of government's ability to interfere with
2 it, not government's ability to promote speech.

3 And I think as Commissioner Furchtgott-Roth, what
4 is most interesting about the Serbian collapse this week is
5 that they tore down the state-owned television station, the
6 station that attempted to push onto its citizens the message
7 that government preferred.

8 This is a difficult issue because while
9 broadcasters pursue their financial interests, that is often
10 synonymous with what the public wants to see. And the
11 challenge of the public interest standard is how much can
12 the government push toward showing more images that
13 consumers might not elect themselves to witness. And I
14 think we have to be very careful in that area.

15 While our democracy is glorious and certainly much
16 more benevolent than the dictatorships that we see around
17 the world, it is no more pernicious for the state to try to
18 attempt to funnel or coerce free citizens to watch and
19 listen to the favorite broadcasters we select. In fact, in
20 my opinion, in a free democracy founded on individual
21 choice, it may be even more pernicious.

22 So I look forward to hearing with those parameters
23 in place. And I applaud the Chairman for holding the
24 hearing. Thank you.

25 CHAIRMAN KENNARD: Thank you, Commissioner.

1 Commissioner Tristani.

2 COMMISSIONER TRISTANI: Thank you, Mr. Chairman.
3 I have spoken before about the pressing need to give
4 substantive meaning to the public interest and to ascertain
5 whether broadcasters are fulfilling their obligations to the
6 American people.

7 I have also asked this Commission to hold a
8 hearing devoted solely to the effect of violent and sexual
9 programming on our nation's children. In that way, I should
10 welcome today's en banc hearing. I am reluctantly here,
11 however, because of the following.

12 First, the limited time allotted to many issues
13 that we are to cover today does not do justice to the
14 importance of these issues to the American citizenry. For
15 example, the lack of political discourse over the people's
16 airwaves merits a separate hearing of its own.

17 Second, and with all due respect to our esteemed
18 panelists, I am concerned that today's hearing, like too
19 many of our public proceedings, is a carefully scripted one
20 and that I am here to watch a play which I know by heart.

21 Third, and my principal concern, is that the issue
22 of the effect of violent and sexual programming on our
23 nation's children is getting short shrift. We didn't devote
24 perhaps two hours, one during our traditional lunch hour, to
25 a subject that is increasingly preoccupying our nation's

1 leaders, our nation's doctors and health experts, and our
2 nation's families and parents.

3 Even our colleagues at the Federal Trade
4 Commission have become engaged in this issue, devoting more
5 than a year and a half to a comprehensive study with
6 startling results. Senators McCain, Lieberman, Bader and
7 Brownback carefully outline these concerns in their letter
8 to this Commission dated May 25th, 2000. In that letter,
9 they asked, among other things, that (1) the Commission
10 comment on the advisability of resurrecting an industry-
11 adopted code of conduct and (2) that the Commission review
12 and re-articulate the indecency standard.

13 These questions would ideally be the framework of
14 a single hearing devoted solely to the subject. It would be
15 ideal, as well, to have a panel or two devoted to fact-
16 finding on the effects of violent and sexual programming on
17 our children. I note in this context that the U.S. Senate
18 Commerce Committee recently found a directly causal
19 connection between violence watched and violence in real
20 life.

21 That this subject is one that weighs heavily on
22 our nation's parents and families is demonstrated by the
23 approximately 30,000 petitions that you see on the table
24 next to me here to my left and what I am presenting today to
25 the Commission. The petitions were gathered by a Puerto

1 Rican group called Attente. And "attente", by the way,
2 means stop.

3 The petitioners are in Spanish and I will read the
4 English translation. And this is as sample petition. They
5 are addressed to the FCC Mass Media Bureau and also to
6 sponsors of indecent programs. And it reads: "Dear Sirs,
7 I, a Puerto Rican, believe that the following programs on
8 television and radio threaten our society's mental and
9 emotional health and particularly our children's mental and
10 emotional health because these programs have a high level of
11 vulgar sexual and moral obscene and violent content."

12 "In addition, these programs threaten to shatter
13 our values as Puerto Ricans and Christians. Also, these
14 programs are aired in open violation of FCC statutes and
15 rules which prohibit the airing of these types of programs
16 before 10:00 p.m. in the evening."

17 The petition goes on to mention three radio
18 programs and then it mentions specifically three television
19 programs. The first one is "Notodiadimis" which is aired on
20 WKET Telemundo Channel 2, Mondays 8:30 to 10:00 p.m., and
21 "Show de Ringamund" which is aired on WAPA Televi Central
22 Channel 4, Tuesdays 9:00 to 10:00 p.m., and "Super Show de
23 Mecano" on WLII Tele Unce which airs daily, 6:00 to 7:00
24 p.m.

25 The petition then goes on to state, "I demand and

1 expect prompt action from you, members of the FCC. We will
2 also be waiting for a response from the sponsors of these
3 programs. Cordially and in anticipation of your response",
4 then there is a line for the name, the date, the address and
5 for the signature and for the telephone number of those who
6 sign.

7 The American citizens from Puerto Rico who signed
8 these petitions are crying out for action. I respectfully
9 submit these petitions for inclusion in the FCC record. I
10 respectfully ask my fellow Commissioners that they ponder
11 what answer we can give to the grievances of these 30,000
12 citizens.

13 As to the subject of indecent broadcasting, I also
14 ask my colleagues whether we will consider adopting a
15 procedure that facilitates rather than frustrates proper
16 review of our citizens' complaints. Access to the courts is
17 a hallmark of American jurisprudence. Access is ensured by
18 simple *lotus crete*.

19 Why should the FCC process be more difficult? It
20 should not be more difficult for an American to file a
21 complaint for indecency with the FCC than a complaint for
22 slanting.

23 In sum, as I stated before, we are giving short
24 shrift to the issue of the effects of violent and sexual
25 programming on our nations children. In doing so, we fail

1 our obligations to our fellow Americans and we fail in our
2 duty to protect and safeguard our children.

3 The noxious effects of violence and sex over the
4 airwaves on young, developing and impressionable minds is a
5 health hazard that we should face head on with determination
6 and conviction. None of us would hesitate to act if our
7 children were being physically violated. But too many of us
8 fail to act when our children's minds are violated.

9 I am, again, reminded of the words of Albert
10 Camut, and I paraphrase, "Perhaps we cannot prevent this
11 world from being a world in which children suffer. But we
12 can reduce the number of suffering children. And if those
13 who have the power to make a difference don't help, who else
14 in the world can help us do this?" Thank you, Mr. Chairman.

15 CHAIRMAN KENNARD: Thank you, Commissioner. I
16 will ask now that our first panel come forth. Now, in
17 addition to asking that you adhere strictly to our new
18 little box up here, I am also going to ask that you
19 introduce yourself for the record and give us a brief
20 statement of who you are and what your affiliation is. So
21 let's begin with our first panelist, Mr. James P. Steyer,
22 Chairman and Chief Executive Officer of J. P. Kids.

23 MR. STEYER: Thank you, Mr. Chairman. Good
24 morning. I am Jim Steyer. I am the Chairman and CEO of
25 J. P. Kids which is a kids' media company that produces

1 television and internet programming here in the U.S. I am
2 also founder of Children Now. My colleague, Patti Miller,
3 will testify later.

4 And I have been watching the kids' programming and
5 broadcasting issues really for almost a decade now. And
6 when the FCC came forward in adopting the regulations under
7 the Children's Television Act, I think all of us who care
8 about high quality kids' programming really felt that that
9 was a positive step forward.

10 Now, having run a successful kids' television
11 company over the past four years, I would like to give you
12 my impression of seeing it from the industry side. First
13 and foremost, I think that the use of the bully pulpit by
14 the FCC and by Congress has really had an effect because I
15 think the broadcasters of all shapes and sizes recognize the
16 need now to do better by kids.

17 Now, having said that, I think that the results
18 overall have been mixed. And it really depends network by
19 network, station by station. Some broadcasters have taken
20 the regulations and their obligations to serve kids quite
21 seriously. Others have not and have basically provided a
22 modicum of inoffensive programming which they can slap an
23 educational label on.

24 So I would say that the bottom line in terms of
25 the impact of the regulations are that they have undoubtedly

1 had an overall positive effect by putting this issue
2 squarely on the agenda for broadcasters, making it an
3 important issue for them to pay attention to. But then it
4 has really been up to the leadership at various stations and
5 broadcast networks.

6 For example, Ms. Sweeney who is sitting to my left
7 oversees Disney ABC Cable Network. She is not under Disney
8 Channel under FCC mandate. But they and Nickelodeon, for
9 example, a cable channel also not under FCC mandate, provide
10 the best educational programming other than what is on PBS
11 that Pat Regent down there is responsible for.

12 So I would say that the regulations are important.
13 I think that there could be much stronger enforcement of
14 them. I think that there are certain networks who are not -
15 - who are just paying lip service to this. And I think that
16 they have been at least provided a positive move in that
17 direction, but no tremendous results yet for reasons that I
18 would like to speak to.

19 I run an independent production company here in
20 the United States. And we were really built in order to
21 create high quality programming and content for kids. That
22 is really the mission of the company, to blend the best in
23 entertainment and education on behalf of kids. And the two
24 major factors that we have run into, we try to empower
25 people in this country.

1 We were giving consumers the choice that they want
2 and the higher quality programming that they want, are
3 really market driven. And they are in two ways. The first
4 is because of the rapid vertical integration of the media
5 industry combined with the appeal of Finn Sein, it is very
6 difficult for independent producers to exist in this current
7 economic structure.

8 And second, because other countries such as Canada
9 and the western European industrial nations all support and
10 subsidize high quality programming for kids and the U.S.
11 does not do that, U.S. producers are at a disadvantage. Let
12 me give you some examples of both of those.

13 In the -- if you take a look, for example, at
14 kids' programming on the broadcast networks, if you looked
15 at NBC which has a "teen block", virtually all of that
16 programming is produced in-house by an NBC subsidiary. I
17 will personally tell you that most of that programming
18 barely passes what you meant by educational and
19 informational programming. But it is all produced in-house.

20 And even companies like the Children's Television
21 Workshop, now known as Sesame Workshop, or J. P. Kids, which
22 we are on a mission to produce high quality programming, run
23 into the simple economic reality that vertically integrated
24 media companies in general, not without exception, but in
25 general would rather put on their own in-house produced

1 programs than those produced by outside producers. Again,
2 there are examples like Ms. Sweeney's operation which are
3 partnered in very good ways with independent programmers.
4 But I think it is an area of real concern for the Commission
5 and one which I urge you to turn your attention to.

6 The second is the fact that because of subsidies,
7 Canadian and European broadcasters have been able to --
8 producers -- to produce the greatest majority of kids'
9 programming on U.S. networks including PBS. Even PBS, which
10 was clearly committed to educational programming, has now
11 given most of the Saturday morning programming up to a
12 Canadian company, Novana. And it is basically because of
13 economic reasons.

14 So I would urge you in this era of digital -- this
15 new digital era where large sums of money could be
16 appropriated to produce higher quality and subsidized high
17 quality programming and give consumers and families a choice
18 they want, that you look at the Canadian model, that you
19 look at the European models and urge that we here in the
20 U.S. adopt similar models to promote what we all care about
21 which is far better programming for kids and families here
22 in the United States. Thank you very much.

23 CHAIRMAN KENNARD: Thank you, Jim. You have made
24 your classmates in the Stanford class of '78 very proud
25 today. Thank you. Anne Sweeney.

1 MS. SWEENEY: Good morning, Commissioner. Thank
2 you for inviting me to join you today. I am the President
3 of the ABC Cable Networks Group and Disney Channels
4 worldwide. I also have creative oversight of Disney's One
5 Saturday Morning on the ABC Television Network.

6 We believe the best kids' programs are those where
7 entertainment and education converge into a seamless
8 experience. That is what makes quality TV engage in
9 programming that stimulates a kid's imagination and opens
10 his or her mind to new ideas and perspectives. To produce
11 high quality kids' programming, we found that it is best to
12 start out with a broad consensus of viewpoints, of parents,
13 caregivers, educational experts and a deep understanding of
14 and commitment to children and child development.

15 The goal is to develop programming that is safe
16 and wholesome for children, that teaches kids how to relate
17 to others and how to think critically. And that helps kids
18 formulate strategies for negotiating in an evermore complex
19 world.

20 The potential that digital television provides for
21 service to children and families is enormous. And we are
22 exploring these avenues by developing not only quality
23 children's programming that has a substantive educational
24 base, but also web extensions for the children's programming
25 that involves parents and children in deeper communication

1 and learning.

2 This multi-media approach is part of our thinking
3 and our planning for the future. Clearly, there is no
4 cookie-cutter formula for creating quality kids programming.

5 We do, however, always start at the same place, with the
6 kids, their parents and their caregivers.

7 Understanding children's developmental needs is at
8 the core of quality children's programming. And we work
9 with a number of child development experts to create high
10 quality programs that are engaging and relevant to our
11 audience.

12 Let's use pre-school as an example. In the early
13 pre-school years, children are developing physical skills
14 like walking or learning to hold a crayon for drawing. As
15 they move into the middle of this range, social skills like
16 sharing, taking turns or working in a group become
17 increasingly more important.

18 Throughout these years, language skills, thinking
19 skills and artistic skills are being developed. Clearly,
20 the family environment and pre-school play a critical role
21 in stimulating kids' development in these areas. Playhouse
22 Disney airing every day on Disney Channel reaches over 67
23 million homes in the U.S. This block, dubbed Learning
24 Powered by Imagination, provides 49 hours of quality pre-
25 school programs for pre-schoolers seven days a week.

1 We based our programming strategy on a whole child
2 curriculum developed for us by educators and developmental
3 psychologists from Harvard Project Zero, Education for the
4 Twenty-first Century and New York City's Bank Street College
5 of Education. Among others, this curriculum focuses on
6 multiple areas of child development including areas as
7 diverse as physical, emotional, cognitive, social and
8 creative development.

9 P. B. N. J. Otter, for example, emphasizes meta-
10 cognitive development or thinking about thinking with young
11 characters who introduce language for talking about thinking
12 and who model problem-solving behaviors. Every episode
13 emphasizes how exciting it is to have brainstorm and how
14 playing make believe are all part of using your noodle. And
15 if we had the room, I would happily demonstrate the noodle
16 dance. But I am afraid we don't have the time or the space
17 today.

18 CHAIRMAN KENNARD: We will make time for that.

19 (Laughter.)

20 MS. SWEENEY: Would you? Only if you join me.

21 (Laughter.)

22 MS. SWEENEY: The learning value of television is
23 not restricted though to pre-school, but extends to school-
24 age children and young teens. Taking a look at these kids,
25 these years are characterized by a broadening of kids'

1 worlds to include not only their families, but peers, their
2 schools, their communities and the world at large.

3 At about seven or eight years old, kids transition
4 from a world of fantasy to one in which the real world plays
5 an increasingly larger role. The focus for school-age kids
6 is on making friends, doing well at school, mastering
7 hobbies, skills and sports. It is a time of excitement and
8 uncertainty as kids undergo a range of new experiences and
9 emotions and take on more responsibility for themselves and
10 within their families.

11 For this age group, we have created Disney's One
12 Saturday Morning which airs weekly on ABC. Working with
13 educational consultants, programs in the blocks are designed
14 to empower kids, foster self-expression and to sensitize
15 them to the world around them.

16 For example, Disney's "Recess" is a collection of
17 animated stories about a group of fourth graders who attend
18 a suburban public school. While friends for years, they are
19 all ethnically and gender diverse. They provide role models
20 for viewers who may be struggling with problems common to
21 this age group.

22 Zoog Disney on Disney Channel is also created
23 specifically for middle-age kids and young teens. At Zoog
24 Disney, we found reality programming to be an effective
25 tool. "Bug Juice", a reality series, follows the adventures

1 of kids at summer camp and deals with becoming increasingly
2 independent, setting personal goals and developing
3 competence and skills.

4 CHAIRMAN KENNARD: Ms. Sweeney, if you would just
5 wrap up, please.

6 MS. SWEENEY: Okay. Thank you. I wanted to say
7 something wonderful about "The Famous Jett Jackson" that was
8 produced by J.P. Kids for us. But that is included in my
9 written remarks.

10 Well, I just wanted to wrap up by saying that
11 parents today were raised with educational television. And
12 they readily acknowledge the role that we play in
13 stimulating their kids' imaginations and curiosity. And
14 they expect TV to help promote their children's learning and
15 growth.

16 We believe that television can play a critical
17 role in opening up the minds of their children and
18 adolescents. TV serves, as we know, both as a mirror and a
19 window, reflecting kids' lives and experiences and opening
20 their view to wider perspectives and broader horizons.
21 Thank you.

22 CHAIRMAN KENNARD: Thank you very much. Ms.
23 Montgomery.

24 DR. MONTGOMERY: Thank you.

25 CHAIRMAN KENNARD: Dr. Montgomery, excuse me.

1 DR. MONTGOMERY: Thank you. Good morning. My
2 name is Kathryn Montgomery. And I am President of the
3 Center for Media Education. Since I co-founded CME almost
4 ten years ago, we have worked with a broad coalition of
5 child advocacy, health, consumer and other groups to promote
6 a wide range of policies. And our goal has always been to
7 promote a more democratic media system that will serve the
8 needs of all Americans, particularly children and youth.

9 CME was joined by a number of groups including the
10 National PTO, the National Education Association and the
11 American Psychological Association in filing our comments in
12 the FCC's notice of inquiry on digital television earlier
13 this year. And I want to thank the Commission for taking
14 our recommendations seriously and formalizing many of them
15 into this notice of proposed rule-making.

16 But I speak today not only as an advocate, but
17 also as an educator and a scholar of media history, a
18 history that I think is worth revisiting as we consider
19 issues facing us today. The allocation of valuable
20 spectrums to these broadcasters has parallels in the late
21 '40s and early '50s when there was intense competition for
22 potentially lucrative television licenses in communities
23 across the country.

24 And as Professors Barry Cole and Mile Edinger
25 wrote in their 1978 History of the FCC: Reluctant

1 Regulators, "Many broadcasters and most television stations
2 got their stations" -- "and most television licensees got
3 their stations in the first place by following the old R.
4 Pej slogan, 'Promise her anything.' Applicants vied to see
5 who could promise the most uplifting and enlightening
6 programs. Each vowed to educate the community's children,
7 provide local, live church service for shut-ins and offer
8 hours to develop the talents of local artists and actors.
9 Drama, sure. Shakespeare and O'Neil. Comedy, Aristophanes.
10 Commercials, only if we can squeeze them in between the
11 city council meetings and the help for handicapped veterans
12 show. "

13 As the authors note, however, as soon as the
14 regulatory spotlight faded and broadcasters had secured
15 their piece of the spectrum, most of these same stations
16 simply reneged on their promises. By the end of the TV's
17 first decade, many of the promised public interest
18 programming had either never materialized or had vanished
19 from the schedule. This failure of broadcasters to live up
20 to their promises prompted one of your predecessors, Mr.
21 Chairman, to pin that infamous and sticky label, "Vast
22 wasteland", on the new medium.

23 Now that we are entering the digital age,
24 broadcasters have again traded on their public trustee
25 status to demand and receive from the government extremely

1 valuable spectrum, promising to deliver quality, high
2 definition television programming and digital services to
3 benefit the public.

4 To date, many broadcasters have not yet delivered
5 on that promise. Yet they know they are sitting on valuable
6 digital property. As the Commission is well aware, digital
7 television is a rapidly developing medium which will
8 eventually become the standard way U.S. citizens receive
9 their television and very likely internet service, as well.

10 As today's issue of the industry standard
11 predicts, by 2004, 30 million U.S. households will use
12 interactive TV services. In 2005, interactive TV should
13 generate 25 billion dollars in revenue from advertising,
14 commerce and subscription fees.

15 With its engaging and interactive properties,
16 digital television is likely to have a more profound impact
17 on how children grow and learn what they value and
18 ultimately who they become than any medium that has come
19 before. And children are embracing digital medium with
20 great enthusiasm. As skilled multi-taskers, children are
21 already using television and the internet simultaneously.

22 As one market researcher recently said, and I am
23 paraphrasing, "Children are not just adopting digital media,
24 they are internalizing it." Therefore, it is critically
25 important that we build into the foundations of the new

1 media system a policy framework for serving children that
2 can help guide the development of the new digital media
3 culture.

4 Let me quickly underscore, I believe digital
5 television has enormous positive potential. And our policy
6 agenda must do more than just protect them from harmful
7 content. I have been actively involved in the V-chip. I
8 support it. I share everyone's concerns. But it would be
9 unfortunate if the debate over the next generation of
10 television focused solely on how we as parents can block out
11 what is offensive or violent to our children.

12 So we have three policy bills. I will be very
13 brief. They are detailed in our earlier comments and will
14 be developed in more detail in our formal comments for the
15 NPRM

16 First, the additional spectrum awarded to
17 broadcasters for DTV dramatically expands their options for
18 delivery programs and services and for generating profits.
19 It is essentially that we set forth clear, quantifiable
20 processing guidelines for how DTV broadcasters use these
21 enhanced capabilities to serve children's educational and
22 informational needs.

23 Secondly, digital technology is ushering in an
24 entirely new set of interactive advertising, marketing and
25 data collection practices. They are dramatically different

1 and more disturbing from those in our conventional
2 television. We need effective protections for children
3 against abuses by marketers.

4 And, finally, digital broadcasters must do more to
5 support a quality, civic media culture, one that will serve
6 children not just as consumers, but also as citizens. With
7 voter participation among young people at a record low, the
8 public should be demanding that broadcasters contribute to a
9 healthier democratic process.

10 I support my colleague, Paul Taylor, and the
11 Alliance for Better Campaigns in urging the FCC to develop
12 new rules that require TV stations to provide free time to
13 political candidates. I believe there is a lot at stake at
14 this particular historical moment. The choices you make now
15 can help create a more democratic media system for the
16 twenty-first century and enable us to harness the power of
17 the new digital media as a positive force in the lives of
18 children and families.

19 But if the Commission fails to establish an
20 effective policy framework for digital television, then the
21 woman who sits in your seat as Chair of the FCC in 2010 may
22 be forced to declare the digital media landscape a vast
23 wasteland. I urge you not to let that happen.

24 CHAIRMAN KENNARD: Thank you, Doctor. Maybe
25 sooner than 2010. Ms. Altman. Let's hope.

1 MS. ALTMAN: Hello. I am Susan Altman, the
2 Producer of "It's Academic." Despite the number of new
3 entertainment options available to children today, broadcast
4 television still plays a primary role. And the FCC
5 regulations requiring substantive programming for children
6 has been of critical importance in seeing that there is
7 quality television available for this age group.

8 Some broadcasters have decried these regulations
9 saying that such programs get low ratings and the children
10 aren't watching them. Well, I can only say that perhaps
11 their programs just aren't good enough and perhaps they are
12 not using the medium to the full extent of its capabilities.

13 The program we produce, "It's Academic", is now in
14 its fortieth season on NBC-4 in Washington, D.C. And it is
15 usually first in its time slot both in the regular season
16 and during reruns. And the program is also produced with
17 local schools in Baltimore and Pittsburgh, Raleigh,
18 Charlottesville.

19 Part of its success is due to the unique
20 relationship that we have forged with the educational
21 community. Each year, hundreds of students from public,
22 parochial, private, suburban and inner-city schools
23 participate in the program. The competition is intense and
24 students come out in force to root for their teams with
25 bands and cheerleaders and fans, many with their faces

1 painted in school colors.

2 The agitation normally reserved for athletic heroes
3 is extended to students who represent their schools on the
4 program. And elementary and middle school students watch
5 the program and look forward to the day when they can appear
6 on the show.

7 The chance to appear on television is still
8 exciting for thousands of youngsters and older people, too,
9 judging by the folks who wave at the camera at various
10 events. And competition is one of the great motivators. By
11 combining the two, television and competition, we are able
12 to support the efforts of the schools to inspire children
13 academically. In fact, school systems in Washington and
14 Baltimore metropolitan areas have made "It's Academic" clubs
15 official extra-curricular activities.

16 Many of the -- almost every weekend, one of the
17 clubs will hold an academic tournament to which they invite
18 other schools in the area and thus extending the benefits of
19 academic competition to far more students than can appear on
20 our show. And many of these tournaments directly reflect
21 the "It's Academic" program.

22 If the show were not on the air, such activities
23 would lose much of their status and probably wither away.
24 In Washington and Baltimore, we have a community-minded
25 sponsor, Giant Food, that keeps the show on the air. And

1 elsewhere, you find broadcasters who take their
2 responsibilities to the community seriously.

3 But more and more, we are seeing broadcasters for
4 whom the bottom line is everything. And that is not good.
5 Television is too powerful a medium and has too strong an
6 impact, especially on our young people, to exist in a
7 laissez faire atmosphere.

8 It is precisely because youngsters today are
9 bombarded by all kinds of material from movies, TV, cable,
10 radio, the internet, material that many parents feel
11 helpless to intercept, that the FCC should take a strong
12 stand in those areas where it has authority. That stand
13 must emphasize the responsibility of broadcasters to act in
14 "the best interest of the community." And surely that
15 responsibility includes a demand for quality children's
16 programming on all levels.

17 CHAIRMAN KENNARD: Thank you very much, Ms.
18 Altman. My wife and I had a debate a few months ago about
19 whether or not the questions on "It's Academic" are really
20 getting harder or whether we are just losing brain cells.
21 So I would love to talk to you about that maybe after the
22 final -- Ms. Miller.

23 MS. MILLER: Good morning. My name is Patty
24 Miller. I am the Director of the Children in the Media
25 Program at Children Now, a national, nonpartisan children's

1 advocacy organization headquartered in California. Our
2 President, Lois Salsbury, was supposed to testify this
3 morning but due to illness is unable to be here. So I am
4 stepping in on her behalf.

5 The challenge before the Commission, the broadcast
6 industry and advocates alike is to create a media
7 environment for children in the digital age that is worthy
8 of our society. An immediate environment worthy of our
9 society primarily must include all children.

10 We need to ensure that children see programming in
11 a digital era that is inclusive and reflects the
12 increasingly diverse world in which they live. Today's
13 children will be the first generation to come of an age when
14 racial minorities will be the numeric majority. Healthy
15 growth and development requires that all of our nation's
16 children have the opportunity to see themselves positively
17 portrayed without being subjected to racial and gender
18 stereotypes.

19 In 1998, Children Now conducted the first national
20 poll of American youth which explored the perceptions of
21 race and class in the media. Our study, A Different World,
22 found that children of all races recognized the power of the
23 medium to limit aspirations and to reinforce stereotypes.
24 As one African American boy told us, "People are inspired by
25 what they see on television. If they don't see themselves

1 on TV, they want to be someone else."

2 According to our research, across all races,
3 children agree it is important to see people of their own
4 race on television because 1) it tells children that people
5 of their race are important, 2) it makes children of that
6 race feel included, and 3) it provides role models.

7 Three-quarters of kids that we polled said
8 categorically that there are not enough Latino and Asian
9 characters on television. And they are right. In 1999,
10 Children Now conducted a contents study called Fall Colors
11 which examined diversity in all prime time shows across the
12 six networks. We found that Latinos and Asians were
13 virtually invisible, comprising three percent and two
14 percent, respectively, of the total prime time population.

15 Native Americans fared worse, barely reaching a
16 percentage point.

17 And while African Americans were more visible, too
18 often that meant they were compartmentalized into sit-coms.

19 Our children deserve programming across digital television
20 from EI programming to prime time which satisfies their
21 desire for inclusivity and accurately reflects the diversity
22 of their lives. And for more information about the range of
23 the work we have done on racial and gender stereotypes, I
24 invite you to take a look at our full testimony that we
25 filed.

1 In a new digital era, we have the opportunity
2 consider rules, innovations and partnerships to create a
3 media environment worthy of our society. This summer,
4 Children Now held a convening at Stanford University for top
5 TV in the media industry leaders called "Supporting Children
6 in the Digital Village." The discussion focused on how to
7 provide content for kids, content that is education,
8 diverse, fun, interactive and age appropriate.

9 Interestingly, much of the discussion from the
10 industry focused on the fact that the marketplace alone may
11 not be enough to ensure good content for children. Industry
12 leaders were receptive to the notion that content that is
13 good for children and content that parents want may require
14 government and industry to work together to develop
15 potential public-private partnerships.

16 And in addition to exploring potential
17 partnerships to maximize opportunities for children, we also
18 need to ensure that current rules are applied in the best
19 possible way to ensure there is a floor for good children's
20 programming.

21 Last March, Children Now, along with People for
22 Better TV, submitted comments to the FCC outlining our
23 recommendations for how to apply the Children's Television
24 Act to digital TV. We are very pleased that the Commission
25 has announced it will proceed to a rule-making to best serve

1 the needs of America's children.

2 As part of Children Now's comments to the FCC, we
3 suggested the idea of a proportional rule which came about
4 from discussions of several leading academics and children
5 in the media. In a digital era with the ability to
6 multicast, Children Now proposes that EI programming -- the
7 hours of EI programming be proportional to the number of
8 hours broadcasters are broadcasting overall.

9 In the next several weeks, we will be talking to
10 academics to further refine our proposal based upon the
11 questions that the Commission raised in the NPRM. And we
12 hope that the Commission will seriously consider this
13 recommendation.

14 Finally, to be sure that digital television
15 creates a media environment worthy of our society, we must
16 take advantage of the new technology. The technology of
17 digital television provides great opportunity to enhance
18 diversity. With digital broadcasters' ability to multicast,
19 local stations have the opportunity to provide more locally
20 produced content. With the ability to air several channels
21 at once, broadcasters no longer have to worry that their
22 programs be all things to all people. They can target the
23 various channels to specific audiences.

24 Local broadcasters could produce their own EI
25 programs and focus on the demographics of children in a

1 particular community. So there could be different
2 children's programs that speak to specific racial and ethnic
3 groups in our local community.

4 Finally, I just want to say again that our
5 children deserve programming across digital TV from EI
6 programming to prime time which satisfies their desire for
7 inclusivity and accurately reflects the diversity of their
8 lives. Our future will depend on children's ability to
9 develop positive racial identities and an appreciation of
10 diversity. And the media can play a strong role in
11 achieving those goals.

12 CHAIRMAN KENNARD: Well said. Thank you very
13 much. Ms. Nugent.

14 MS. NUGENT: My name is Patricia Nugent. I am the
15 Senior Director of Children's Programming at PBS. And I
16 want to begin by thanking you, Mr. Chairman, and the entire
17 Commission for your strong record of support for public
18 television. I was eager to appear before you today because
19 providing nonviolent and educational programming for
20 children is a core element of our mission.

21 As the Commission considers how the public
22 interest may best be served by broadcasters in the digital
23 age, I would respectfully suggest that public television
24 would be at the center of your thinking.

25 After all, in an increasingly competitive media

1 marketplace dominated by a handful of global corporations,
2 only public television can and will devote its creativity
3 and resources to providing noncommercial educational
4 children's content free of charge to a universal American
5 audience.

6 PBS stations currently aired a six-children series
7 that are watched by more two to five-year-olds than any
8 other programs on television. We have focused on pre-
9 schoolers because we believe that success in school begins
10 early. As Fred, Mr. Rogers, says, "No one can learn until
11 they are ready to learn." Yet one in three five-year-olds
12 arrives in school unprepared for kindergarten.

13 Each PBS kid series is developed to achieve
14 specific curriculum goals and is accompanied by on-line
15 educational resources, workshops that teach parents how to
16 connect television to reading, free books for children who
17 otherwise wouldn't own them, and a magazine in English and
18 Spanish.

19 Each major series is accompanied by entertaining
20 and wholesome websites that enables kids to dig deeper into
21 their favorite programs, learning and having fun at the same
22 time. In addition, PBS is a number one television resource
23 for schools with 12 of the top 15 shows cited by teachers as
24 best for classroom use.

25 The federally-funded, ready-to-learn program also

1 provides major support for a ground-breaking new series that
2 premiered on PBS in April called "Between the Lions." One
3 of the most important television programs for young children
4 since "Sesame Street", "Between the Lions" presents an early
5 reading -- excuse me, presents an early reading curriculum
6 created by the nation's top literacy experts. And the
7 results are astounding.

8 An independent study by the University of Kansas
9 found that watching just four weeks of the series helped
10 kindergartners significantly raise their reading skills and
11 scores. "Between the Lions" has taken television to a
12 completely new level and reveals a promise of children's
13 programming that is truly committed to raising educational
14 achievement.

15 Anticipating the digital future, PBS in 1999
16 launched a 24-hour, noncommercial digital channel called PBS
17 Kids comprised entirely of nonviolent and educational
18 programs for children. The channel is currently available
19 through 32 local PBS stations in 24 states which is more
20 than six million households nationwide.

21 PBS is also the first to test interactive digital
22 programming for children with an enhanced version of its
23 unique wildlife series Zoboomafoo in 1999. When outside
24 authorities look at children's programming, they invariably
25 like what they see on PBS stations.

1 And as influential, a 1999 survey of television --
2 children's television, the Annenberg Public Policy Center of
3 the University of Pennsylvania found that PBS presented the
4 highest quality and most educational programs on television.

5 The survey reported that PBS children's programs had no
6 violence, no problematic language and the most ethnic and
7 gender diversity of its characters.

8 While we are proud of our record, we know there is
9 still much more to be done. We have in our pipeline several
10 new series designed with educational interactivity that
11 capitalizes upon the convergence of television and the
12 internet. We would also like to bring enhanced educational
13 television to our entire PBS kids' schedule as well as the
14 PBS kids' channel.

15 This fall, we have trials underway with a number
16 of leading cable operators in selective markets to explore
17 enhanced TV programming concepts. We deliver all these
18 unique and important services for children with a small
19 fraction of the resources available to other television
20 enterprises.

21 Our current funding sources will never enable us
22 to seize our digital opportunities and achieve the valuable
23 public service goals I have described. For the American
24 people to receive the full promise of digital technology,
25 the Federal Government should expand its historic

1 partnership with public television.

2 I would like to share one more idea for your
3 consideration. We recommend the development of a new fund
4 of public television to stimulate the creation of digital
5 content for children's programs and related on-line and
6 broad band services. PBS would employ these funds to give
7 our children's programs a full complement of interactive
8 learning experiences on television, the internet and new
9 distribution platforms such as broad band and wireless
10 devices.

11 Consistent with our fundamental commitment to
12 universal access, we would ensure that these features were
13 available to people from low income households, those whose
14 primary language is not English and persons with
15 disabilities. We can provide the content to bridge the
16 digital divide.

17 In closing, I applaud the Commission's commitment
18 to ensuring that public airwaves serve the public interest
19 and look forward to working closely with you to implement
20 this vital national priority in the future. Thank you.

21 CHAIRMAN KENNARD: Thank you very much, Ms.
22 Nugent. Now we will have a few minutes for questioning from
23 the Commissioners. And then if time permitting, we will
24 also invite some questions from the floor. Thank you all
25 for those presentations. They were all very concise and

1 very, very useful to us.

2 And one theme that seemed to sort of run through
3 all of your testimonies is that there is a need for some
4 government involvement in this area. Jim, you talked about
5 the Canadian model and the need for a Federal Government
6 subsidy. And Ms. Nugent and Ms. Miller talked about
7 private-public partnerships.

8 Ms. Altman, of course, you have one of the most
9 successful local children's shows. But you have a long time
10 sponsor in Giant Foods that has been with you consistently.

11 And Ms. Sweeney, you have -- coming from the cable
12 industry, you have somewhat of a different economic model
13 than the broadcasters.

14 I believe that one reason why Congress passed the
15 Children's Television Act of 1990 is because they recognized
16 that there is a market failure when it comes to providing
17 affirmative educational programming for our kids. I think
18 that is pretty clear from the legislation and certainly from
19 our implementing rules.

20 I guess my question for this panel of experts is
21 are there shows out there that are both serving the
22 educational and informational needs of kids, but also
23 successful in the marketplace? Is there a business model
24 for this type of programming? Jim?

25 MR. STEYER: I do think there is, Mr. Chairman.

1 But it is very, very tough. And I think that what you are
2 hearing from industry, as well as from the public sector, is
3 that there isn't -- that a blend of traditional business
4 models -- I mean, I run a for-profit media company. It is a
5 very difficult business in a vertically integrated world
6 where the competition from Canada, Europe and elsewhere have
7 up to 50 percent of the budgets of their high quality
8 programs subsidized by the Canadian government or the French
9 government or other governments.

10 So I think there very definitely is a solution out
11 there which is a blend of traditional private marketplace
12 solutions that emphasize commercially successful programming
13 with curriculum and educational elements built in, but which
14 receives support from -- in the same way that basically
15 every other western industrialized nation does it.

16 And I think that it would be great for this
17 Commission to follow -- to expand even upon what PBS is
18 asking for and look at this in a more broad way. That is --
19 that doesn't run into issues of censorship that you raised,
20 Commissioner Furchtgott-Roth, or issue of restricting
21 content. This is enhancing choice and giving opportunities
22 to American families, to parents and kids for quality
23 programming.

24 And I think that a pure marketplace solution alone
25 will not suffice. There aren't that many Anne Sweeneys out

1 there. And I think that a blend of this is really what can
2 happen and that this should be the next major leadership
3 role I think for the Commission in this regard.

4 CHAIRMAN KENNARD: Anyone else?

5 DR. MONTGOMERY: Well, I would just like to say
6 that I believe that the Children's Television Act and
7 particularly the processing guideline, the three-hour
8 processing guideline has had an overall impact on the
9 marketplace that may even reach beyond broadcasting in that
10 it has raised the level of debate about the need for quality
11 educational programming.

12 And there are programs on broadcast television --
13 and I think Ms. Sweeney has provided examples -- that are
14 doing well in the marketplace. And as you indicated
15 earlier, your so-called FCC-friendly shows -- which is a
16 term I don't like to use, but I find myself using -- I do
17 better with terms like being carried by television stations,
18 television affiliates than some of your other programming.

19 You know, my hope is that the standards that we
20 create for serving educational and informational needs of
21 children will actually have an impact that goes far beyond
22 broadcast television. However, I would like to add that for
23 digital television which has, I repeat, gotten additional
24 spectrum driven on its public trustee status, we should be
25 asking for more.

1 And we should be asking for digital broadcasters
2 to use that special capability that broadcast television has
3 to enhance children's educational and informational needs.
4 And that may go beyond programming. It should include
5 serving schools perhaps, providing program into schools and
6 connecting others. There are many things that digital
7 broadcasters could do if they want to continue to be public
8 trustees to really enhance and support children's
9 educational needs in this digital era.

10 MS. SWEENEY: Just to clarify something that Dr.
11 Montgomery mentioned and Jim, as well, referencing the FCC-
12 friendly programming, that ABC One Saturday Morning is
13 running a two-hour block that is supplied by the ABC
14 television network. It clears an average of 93 percent of
15 the country unlike the programming that is produced without
16 -- that is not FCC-friendly, although it is very friendly,
17 which clears somewhere in the neighborhood of 79 to 82
18 percent.

19 I think there is another component that we haven't
20 spoken to. We have talked about business models. What we
21 haven't spoken about is creativity. And, you know, moving
22 forward, we have to realize that kids are already embracing
23 an interactive future. They are there. There isn't a space
24 between the television set and computer for them.

25 So as we work with producers going forward and

1 recognize the educational needs of kids, I believe we need
2 to be aware of the many creative avenues that we have to
3 pursue as broadcasters and as cable-casters.

4 The Walt Disney Company provides opportunities to
5 30 individual creative companies in the course of a given
6 week to provide programming to the ABC television network,
7 to Disney Channel and to Toon Disney. I think going
8 forward, that needs to be both a focus and a component in
9 looking at all the structures.

10 CHAIRMAN KENNARD: Thank you. Just to get a
11 little bit more specific on my question, what I am really
12 looking for, are there examples of children's educational
13 and informational programming on the air today that is
14 profitable? And you may have suggested that with the
15 clearances of your Saturday morning block.

16 But when you look across sort of the spectrum of
17 children's television programming today and you go to these
18 meetings -- and I am not asking you to be revealing any
19 proprietary information here, but is there a sense among the
20 executives that are producing this programming that it is
21 going to make money?

22 MS. ALTMAN: Well, sure. I mean, "It's Academic"
23 makes money. We are a profit-making company. The problem
24 isn't that broadcasters don't think these programs can earn
25 money. It is that they think that other programming can

1 earn more. And that is where we really run into a problem.

2 Yes, there are plenty of community-minded
3 broadcasters out there who feel that in addition to making
4 money, they also have other responsibilities. And they act
5 on it. But there is tremendous -- as the competition with
6 cable increases and with the internet increases, there is
7 tremendous pressure on these people to produce economically.

8 And usually, that means going to the highest kind of
9 program manager.

10 It could be an infomercial. It doesn't matter as
11 long as it pays. So it is not that we can't produce
12 economically. We can. But there is a perception out there
13 that other things can earn a lot more at a lower cost. And
14 sometimes that is right and there is nothing much we can do
15 about that.

16 CHAIRMAN KENNARD: Thank you.

17 MS. SWEENEY: So there is -- if you don't make a
18 value judgement saying that we want certain kinds of
19 programming on there, whether or not they are -- you know,
20 the fact that -- I don't want to say we are a zircon around
21 a bunch of diamonds economically. But basically, other
22 things -- we can do it. We can do it. But we do need an
23 incentive. Look, people are charitable, too. But it
24 doesn't hurt that the tax code gives them a deduction when
25 they contribute to various charities. And that is what we

1 are talking about.

2 CHAIRMAN KENNARD: Thank you. I should give my
3 colleagues an opportunity to get in here.

4 COMMISSIONER NESS: When we drafted the guidelines
5 and rules for the Children's Television Act in 1996, we
6 emphasized empowering parents to work together with
7 broadcasters to ensure that there is quality educational
8 programming that is available, that they know when that
9 programming is aired so they will have an opportunity to get
10 their children perhaps sitting together to watch.

11 And we have seen that roll-out with varying
12 degrees of success. One of the issues that I have been
13 concerned about is ensuring that parents know when there is
14 educational and informational programming available because
15 it seems to me that if there are more eyeballs watching,
16 little ones and big ones alike, society is going to get more
17 Giant folks and others to sponsor these programs and,
18 therefore, create a better financial model for flourishing
19 such -- for the fluorishment of such programs.

20 One of the questions I would like to have answered
21 is to what extent have you been working with parents,
22 teacher groups and the like to get the word out about the
23 existence of educational and informational programming?
24 Anyone can pick up on this.

25 MS. NUGENT: At PBS, we are, indeed, very much

1 aware that parents and children need to watch television
2 together. And that enhances the educational experience for
3 kids. And also, we want people to know that it is fun.
4 Kids enjoy watching and parents enjoy watching the
5 programming.

6 But specifically, we have our website speaking to
7 parents and offering them information on our curriculum and
8 educational goals and with our ready-to -- free ready-to-
9 learn service creating a site specific to parents to help
10 them know more about the programming and what is being done
11 in terms of PBS and working with parents.

12 In addition to that, at the local level into
13 community outreach, we have PBS stations that work at the
14 community level to help parents, educators and people in
15 schools know what information is available in terms of our
16 programming and how the educational experience of the
17 programming can be enhanced through print materials and
18 through the grant.

19 COMMISSIONER NESS: Anyone else want to respond on
20 that?

21 MS. SWEENEY: Yes. We have two interesting
22 examples in our company. One is Playhouse Disney which is
23 targeted to pre-schoolers where we absolutely target
24 mothers, fathers and caregivers and alert them to the
25 educational value of the programming and how to find the

1 programming.

2 It is a little bit different for us with middle-
3 age kids, the kids that we are reaching with Zoog Disney and
4 One Saturday Morning. In that case, we have to go to where
5 the kids are. And if our intent is to build eyeballs and to
6 bring them to the television set, it is incumbent upon us to
7 use every single avenue afforded to us by the Walt Disney
8 Company, as well as outside media.

9 So when it comes to the middle-age kids, we are
10 utilizing everything from our own airwaves to paid media
11 across a number of websites and other television networks.

12 DR. MONTGOMERY: And I would like to say that
13 public broadcasting I think does a very good job of reaching
14 out to audiences and the communities. And unfortunately,
15 not enough commercial broadcasters do that. I think that
16 they could take the initiative. We have done so on the part
17 of the nonprofit community to create room for broadcasters,
18 some community viewings and some of our work we have done in
19 Maryland and out in California. But that is very -- a great
20 responsibility for a nonprofit to do.

21 And I think broadcasters should take more
22 initiative to reach out to the community, to bring parents
23 in, to bring educators in, to talk about quality programming
24 for children. There is much more they could do in that
25 area.

1 COMMISSIONER NESS: It seems to me that there
2 ought to be a way to get broadcasters in a community to work
3 with parents or teacher groups or with some food chain such
4 as the Giant Food to publish inexpensively a list of all of
5 the educational programming available for children in the
6 course of a week and have it distributed at the checkout
7 counters as a freebie flier for parents so they will know
8 when the programming takes place. Is there any reason why
9 something like that could not occur inexpensively?

10 MS. ALTMAN: Well, we do pretty good because we
11 work with the schools, for example. All the schools get a
12 schedule, a poster that is made up by Giant Food so that
13 they know the listing of all the games. And, of course, we
14 provide photographs of the team to yearbooks and so forth.
15 And we also will provide material. There will be PTA "It's
16 Academic" Nights will students will compete against teachers
17 and so forth.

18 COMMISSIONER NESS: That's terrific. But that is
19 just one program.

20 MS. ALTMAN: I understand. And that is my point.
21 It is just one program. And we really can only do it on
22 that basis. It becomes -- I think -- you have a listing. I
23 mean, you can always have a listing and you can providing.
24 But you've got to listen to what --

25 COMMISSIONER NESS: But for the most part,

1 newspapers don't really make it very clear what is
2 educational and informational programming. The TV Guides
3 don't really make it abundantly clear.

4 I have been trying for the last couple of years,
5 for example, to get the weekly listings to have a separate
6 box that we have separate advertising where all of the
7 educational and informational programming for that week can
8 be listed so a parent can look down real quick, figure out
9 what the age group that is targeted is and ensure that they
10 have an opportunity to watch with their children.

11 MR. STEYER: Commissioner Ness?

12 COMMISSIONER NESS: Yes?

13 MR. STEYER: I am a parent of three kids and I am
14 in the industry. And I would say you are exactly right. It
15 doesn't happen except for PBS. And it is -- again, it is
16 all about economics. It really is. There are two ways to
17 do it. The Commission could require that local broadcast
18 stations do that and that they could air on some basis the
19 announcements about what are the educational and
20 informational programming that they are offering.

21 You could either require that or you could provide
22 some sort of incentive to do that like some form of tax
23 credit or otherwise. It is really -- it really comes down
24 to that simple a choice because most stations don't have the
25 full-time community service representatives out there doing

1 those things.

2 It really comes down -- almost everything that
3 relates to kids' programming, it ends up being a question of
4 economics and whether or not the resources are -- you either
5 require it from every station or you need to provide some
6 sort of -- and that is why I keep coming up with the
7 Canadian model, because it is a proven successful model of
8 tax credits where people will then put the resources that
9 are necessary to inform parents to create programming, et
10 cetera.

11 DR. MONTGOMERY: That the television industry of
12 reaching out to schools to promote prime time docu-dramas
13 and TV movies or so forth that are of historical interest or
14 for any other reason they want to promote, they put money
15 into that. And they do it all the time.

16 I would argue, and I may seem like a cynic here,
17 but I would argue that for some of the broadcasters, they
18 have because of the quality of the educational programs they
19 have produced, they have created a decent center for making
20 that information known to parents because often when I am
21 talking about these programs to parent groups, they say
22 that's educational? And I almost feel apologetic because I
23 say, you know, we tried.

24 You know, we have been trying to make it better
25 and the law permits a wide range of content. And we can't

1 intrude any further and we don't think it is appropriate for
2 us to. But parents do have a role to play there.

3 Broadcasters have over -- even though they have
4 point people, contact people who are supposed to deal with
5 children's shows, they are not being very proactive in this
6 area. And I agree with Jim. I think there is more the
7 Commission could do to prod them a little bit.

8 COMMISSIONER NESS: I would love to hear from the
9 networks if they could respond back as to why they couldn't
10 get together and have a list published and perhaps
11 distributed in each community so that parents do know what
12 the educational --

13 MR. STEYER: They could, Commissioner Ness. They
14 could. And Dr. Montgomery is right. And Anne would be
15 proud to list what is on ABC One Saturday Morning. And she
16 could give you the curriculum on every program as well as
17 probably most of the programs on the Disney Channel.

18 But I can assure you that there are other networks
19 who we all know who would never want to do that for the
20 exact reasons that Kathy just said which is they are putting
21 up programs that if you told me as a parent that these are
22 educational, I would be hard pressed to believe that. And I
23 think that either the Commission has to act or then the
24 other alternative which I think makes sense in the big
25 picture is --

1 COMMISSIONER TRISTANI: Can I follow up on that?
2 Can anyone here do an estimate on the proportion of
3 educational programming that is really educational? What
4 are we talking about here?

5 DR. MONTGOMERY: I don't know if I can give
6 figures. But I would refer you to the Annenberg report, the
7 most recent Annenberg report which I don't have with me for
8 figures. But they created categories --

9 COMMISSIONER TRISTANI: What were they just for --

10 DR. MONTGOMERY: Minimally educational is a range,
11 you know. And I would say it is a pretty large proportion,
12 probably at least half, that are questionably educational.
13 And, in fact, part of the problem is that the statute says
14 it can serve emotional and -- I know this by heart and I
15 have forgotten it -- emotional and, you know, either
16 intellectual or cognitive or emotional-social. That's
17 right.

18 And it is easier to create the programming that
19 serves the emotional and social needs. And that is how we
20 got into the problem with "The Jetsons", which I wasn't
21 going to bring up here. But that is how they got by or
22 thought they were going to get by with putting "The Jetsons"
23 on and saying it was teaching children what life would be
24 like in the year 2000 which we are now in. But, you know,
25 unfortunately, far too many of the programs are in that kind

1 of very "iffy" category.

2 MS. SWEENEY: Yes, I -- "Jetsons" aside, I don't
3 agree that it is easier to produce shows that respond more
4 to the social and emotional growth of children.

5 DR. MONTGOMERY: I don't think it should be. I am
6 saying that is the argument that is often made.

7 MS. SWEENEY: No, it isn't easier.

8 DR. MONTGOMERY: No, I think it is important to
9 understand that when you are targeting kids as ABC is who
10 are between the ages of six and 11, these are very relevant
11 and contemporary issues to this age group. And the fact
12 that ABC has taken the step and the Walt Disney Company has
13 made the investment in producing shows and new shows that
14 address the issues that kids are facing I think is very
15 significant.

16 COMMISSIONER TRISTANI: Let me follow up. And I
17 have got to go to my subject. And first of all, I want to
18 thank all of you for your good testimony and for your good
19 efforts in producing, those of you that do produce
20 programming, and the care and you are able to get it to the
21 American people and the advocates that have their good
22 things to say.

23 By the way, Children Now, I have looked at your
24 studies with too much pain about the negative stereotyping
25 or lack of images. Particularly, I am Latino, so a lack of

1 images for Latino children. And unfortunately, since you
2 produced those studies, things haven't changed at all in any
3 real meaningful way.

4 But I have to tell you that I get a lot of e-mail.
5 I get a lot of letters. And as you see, I got 30,000
6 petitions last week. And I can count maybe on one or two
7 hands e-mails from parents saying give us more educational
8 programming, not that that isn't important. But what I hear
9 from parents is empower us in some way to stop this barrage
10 of inappropriate programming for our kids.

11 So I want to ask each and every one of you do you
12 think resurrecting a broadcasters code of conduct would be
13 helpful? And you can start, Mr. Steyer.

14 MR. STEYER: I actually -- I saw the Chairman's
15 remarks earlier this week, too, about a voluntary code of
16 conduct. And I am all for that. I think that, for example,
17 we used to devote a law about the family hour. And one
18 thing I have learned, by the way, as a creator of kids'
19 programming and having left my advocacy spurs in the closet,
20 is that in fact many of the programs you are most concerned
21 about or people are most concerned about are not kids'
22 programs.

23 They are actually adult programs that are airing
24 at inappropriate times. That is really a problem. You
25 know, I've got kids who are -- my oldest is seven years old.

1 Well, if she is watching television after 8:00 p.m. in the
2 evening or even just about any time, there is stuff that is
3 on.

4 It is rarely kids' programming. It is usually
5 adult programming which has no sorts of guidelines. And I
6 do think that's where voluntary codes of conduct come into
7 play. So, yes, I would urge you to do that. And I would
8 also say to you, Commissioner Tristani, that your concerns
9 in this regard -- and I know the next panel will also
10 address issues of violence and sexuality, et cetera -- are
11 really important.

12 But the Commission should view them at some point
13 distinct from the issues we are talking about here which is
14 promoting better quality and more high quality kids'
15 programming. But, yes, I would certainly support voluntary
16 codes of conduct all the way.

17 COMMISSIONER TRISTANI: Ms. Sweeney?

18 MS. SWEENEY: It has been my experience that any
19 time rules are written or codes of conduct have been drawn
20 up that people find ways around them. And I believe it is
21 incumbent upon each of us as producers of children's
22 programming, producers of programming overall to act
23 responsibly.

24 DR. MONTGOMERY: I recently met with some network
25 servers and practices executives who went through a great

1 deal of detail to tell me about their policies for ensuring
2 quality in children's programming and in other programming
3 and adhering to the television ratings because I serve on
4 the monitoring board for the TV ratings system.

5 And I asked them, gee, those are very interesting.

6 Why don't you publish those? And they said, oh, well, we
7 don't want to do that because then somebody might hold us to
8 them and, you know, we put ourselves into a very vulnerable
9 position. And I think, again, that is part of the problem.

10 I do think it is a good idea to have broadcasters
11 come up with a code of conduct. They had one before. You
12 know, the problem with it was that people didn't adhere to
13 it. I used to hold it up to my classes and then read from a
14 TV Guide. And it got a lot of laughs. You know, we will
15 not do this, we won't do this, and we will always do. And
16 then I would read descriptions of programs.

17 So I am a little bit skeptical that it would work.

18 But I do think that there needs to be a continuing debate
19 about the quality of our media culture. And certainly, much
20 more needs to be done by all members of the media industry
21 to raise that level of quality and this issue will not go
22 away.

23 COMMISSIONER TRISTANI: Ms. Altman.

24 MS. ALTMAN: Well, I agree. I do think there
25 needs to be a code of conduct. A parent should not have to

1 stand guard constantly over a TV set to make sure that
2 nothing objectionable is on it for a child. There his no
3 reason why the programming that pushes the limits can't be
4 on later in the evening. Eight o'clock is too early.

5 And the fact is you are not getting complaints
6 about just one or two programs where maybe somebody's
7 judgement went off a little bit. You are getting complaints
8 -- or at least I know we get complaints -- that program
9 after program after program is inappropriate for younger
10 children. And not only for younger children, for 12 and 13-
11 year-olds.

12 As the medium changes -- well, let me say one
13 thing. When -- this is off television, but on radio. At
14 one time, music was targeted just toward adults. Then when
15 you -- now music stations are targeted toward 13-year-olds
16 and 12-year-olds often. And the kind of music content,
17 lyric content that used to be targeted just toward adults is
18 now aimed at young children. The medium has changed. But
19 the content hasn't changed or it has been targeted at
20 another age group.

21 This is the same thing. The content -- adult
22 content is okay at certain times or on certain channels.
23 But to sit there and say you have a family hour when people
24 feel they have to stand guard over their set and not allow
25 their children to watch certain things and have this happen

1 repeatedly is a major problem. And without a standard, you
2 see what you get.

3 COMMISSIONER TRISTANI: Ms. Miller.

4 MS. MILLER: Children Now would definitely support
5 a voluntary code of conduct. I think it just serves as a
6 reminder to broadcasters that they are a public servant and
7 that they are acting and they should be acting in the
8 public's best interest.

9 However, I don't think that a voluntary code of
10 conduct should take the place of rules. And I think 30
11 years of history on the Children's Television Act
12 demonstrates one's certainty. Without stringent rules and
13 regulations, broadcasters are not going to act in the public
14 interest of kids or of anyone else. So I think, yes, I
15 think it is a good reminder to broadcasters. But I don't
16 think that alone is going to solve an issue.

17 COMMISSIONER TRISTANI: Ms. Nugent?

18 MS. NUGENT: Certainly, it sounds like a fine idea
19 for further discussion.

20 COMMISSIONER TRISTANI: Nothing else from our
21 broadcaster?

22 MS. NUGENT: I am a person of few words. I will
23 let my contents speak for me.

24 COMMISSIONER TRISTANI: Thank you.

25 COMMISSIONER POWELL: Mr. Chairman?

1 CHAIRMAN KENNARD: Yes, Commissioner Powell.

2 COMMISSIONER POWELL: First, I want to make a few
3 commendations. I watch a lot of TV and I watch more
4 children's TV than I should. But nobody does it better than
5 PBS. And nobody does it better than, candidly, the Disney
6 Channel and particularly with full featured movies that are
7 hard to find for kids that feature values and messages. And
8 we are big fans of "The Mall" and big fans of "Jett
9 Jackson", by the way, as well.

10 And I would also echo the point that Ms. Sweeney
11 made about values and the social issues, struggling with
12 your kids. To be honest as a parent, I am less looking for
13 my TV to replace his sixth grade teacher and more for it to
14 reinforce the values that I care about. I think that should
15 never be discounted as secondary to brilliant programs like
16 "Sesame Street" which I think much better in the pre-school
17 years than they do when kids start to grapple with the more
18 sort of complex issues of childhood on a social and
19 emotional front.

20 But that's -- one of the things I am intrigued by
21 is we keep talking about the importance of government
22 intervention which may be fair points in certain contexts.
23 Certainly, to some degree, PBS is a subsidized medium, not
24 unlike some of your descriptions of Canadian.

25 And I think one of the reasons they do as well as

1 they do is that they have a very different alignment of
2 interests and focus. This is one of the reasons I think our
3 country should be fully supportive and behind many of the
4 things they do. We recognize that we change and realigned
5 the incentives so that those things would be valuable.

6 But even the programs that Mr. Steyer admitted
7 were the finest, interestingly enough, are on mediums that
8 don't have these obligations. And that is what I am
9 intrigued by. Nickelodeon, the Disney Channel, Wham,
10 Boomerang, Discovery Kids, the lists are getting longer and
11 longer. And interestingly enough, more and more of those
12 programs are finding their way into other mediums.

13 And so one of the questions I kind of wanted to
14 explore -- particularly maybe, Ms. Sweeney, this is more
15 your question than anyone else's -- what is the business
16 thinking in the choice to put a kids' programming, say, on
17 cable instead of broadcast, for example, which you have the
18 freedom to choose to some degree? And I think relatedly,
19 what are you seeing in the marketing in terms of the pattern
20 of children?

21 For example, when I was a kid, Saturday morning
22 all you did was get up to watch TV. We waited for that day
23 all week. My kids never talk to me with that hair thing.
24 You're too busy. But now, I've got to tell you, my
25 communities, kids get up and go to soccer. And they get up

1 and run all day around in mini-vans. And Saturday is not a
2 television day to a large measure, just in my own limited
3 experience. I am sort of intrigued by that.

4 And other things that I find challenging with
5 broadcasting is to some extent, it is struggling with the
6 zero sum gain. I think Ms. Altman mentioned it is not that
7 it is not profitable. There is things that are more
8 profitable. And when you have a limited pie, those things
9 are tending to win.

10 One of the things I have been intrigued by this
11 movement to cable is that a whole channel gets dedicated.
12 You know, a whole genre gets dedicated to the kids and it
13 allows it to sort of have the volume and interest. And so I
14 am going to just throw that out to see what the panel thinks
15 about that because I do see a lot of quality programming
16 coming into the market. But I see most of it coming into
17 subscription-based medium.

18 MS. SWEENEY: Well, speaking for the Walt Disney
19 Company, which is an unusual company in many ways because it
20 really was founded on the needs, the desires and the
21 creativity of kids and families. So starting there, the
22 decision, our decision to put a show on One Saturday Morning
23 or on Disney Channel is really based on how those two
24 services for kids have been set up and who they are
25 positioned to reach.

1 In the case of One Saturday Morning, it is
2 specifically targeted to meet the needs of kids six to 11
3 years old. Disney Channel because it is 24/7 as opposed to
4 One Saturday which is obviously once a week is designed to
5 cover a wide array of age groups.

6 There really isn't any great financial decision
7 that is made. It is really a creative decision. Recess is
8 targeted to those six to 11-year-olds. Disney Channel's
9 take on six to 11-year-olds is really to reach them with
10 reality programming like "Bug Juice" or "Totally Circus" or,
11 you know, other programs like the movies you mentioned.

12 You know, as far as the marketing, you make a
13 terrific point. Growing up, I was lucky if my mother let me
14 get to the television set on Saturday morning because
15 usually the piano was first. But we didn't have all the
16 choices. We had three broadcast networks. We had an array
17 of lessons. But we didn't have the extra-curricular
18 activities that kids enjoy today.

19 So really to Commissioner Ness' earlier point
20 about how to market and how to reach, we really have to go
21 to where kids are. We really have to dig deeper. We really
22 have to market harder and we need to think harder. And I
23 think the most important factor is we really need to be
24 smart about where they live, what they watch and why they
25 are watching.

1 And that is why when we promote One Saturday
2 Morning, we are promoting it on the Disney Channel. We are
3 promoting it on Team Disney. We are promoting it across the
4 ABC Television Network. We are running spots and
5 "Millionaire" because we know -- it reminds me of "It's
6 Academic." And, you know, I watch my daughter and husband
7 play "Millionaire" together and see who can get the
8 furthest. And God bless her, she crossed the \$125,000.00
9 mark the other week. Unfortunately, she can't go on the
10 air. But --

11 COMMISSIONER POWELL: I was going to say that's
12 not hard to do. But I won't.

13 MS. SWEENEY: For me it is. But you do make a
14 good point. And I think we are in an unusual situation.
15 You have given the number of platforms we have internally to
16 promote and help kids find the programming on One Saturday
17 Morning or on the Disney Channel.

18 CHAIRMAN KENNARD: Yes, Commissioner Powell?

19 COMMISSIONER POWELL: If I could just -- go ahead.
20 Then I wanted to follow up with Ms. Sweeney on that. But
21 isn't there a basic difference in economics that
22 Commissioner Powell was getting at. In other words, if the
23 number of kids watching One Saturday Morning was the same as
24 what is -- the number of kids that are watching the Disney
25 Channel, wouldn't that be deemed insufficient? I mean, it

1 seems to me that in the cable model, the men are casting.
2 And so success is defined somewhat differently than in the
3 broadcasting over the network where we have a much broader
4 audience-reaching potential.

5 MS. SWEENEY: Well, we have two very different
6 businesses there.

7 COMMISSIONER POWELL: Right.

8 MS. SWEENEY: Disney Channel does not carry third-
9 party advertising. It relies on fees paid by cable
10 operators. Whereas One Saturday Morning relies totally on
11 third-party advertising. It really does come down to choice
12 -- creative choices that you make. A Disney Channel may
13 commission a series that is as expensive as a series that
14 runs on One Saturday Morning. But those choices have to be
15 balanced against other choices that we make across other day
16 parts.

17 CHAIRMAN KENNARD: Jim?

18 MR. STEYER: Yes, Commissioner. I would like to
19 respond even more to what you were saying, Commissioner
20 Powell. One thing I think that is really clear to me having
21 a run a media company now for four years is that leadership
22 is -- this is going to sound obvious, but leadership is
23 critical.

24 I mean, you have the Anne Sweeney at Disney
25 Channel and you have Herb Scanlon and his team at

1 Nickelodeon, these guys. Their companies are rated in a kid
2 tradition. They are committed to it. Anne commissions
3 curriculum for every single series we do with these guys.
4 It is very serious. It obviously reflects a commitment on
5 their part. And if she said their company has attritioned
6 that plus they have an ability and in many cases do produce
7 them in-house at Walt Disney Television Animation if it is
8 animation or in Nickelodeon's case, they also have their own
9 animation studio.

10 If you move to the networks though and if you take
11 ABC out of the equation because of both the leadership and
12 the fact that they have Walt Disney Television Animation --
13 and remember, you all just approved the Viacom-CBS merger
14 which means basically that Nickelodeon is going to program
15 CBS Kids Block. You are going to see Nickelodeon programs
16 now on CBS because there is an economy of scale to do that.

17 If you look at the other networks that don't have
18 that, you don't have the same level of leadership, quite
19 frankly. And they are looking for the cheapest possible way
20 to meet some relatively unclear mandate to them on what FCC-
21 friendly programming is. That is how they look at it. And
22 so they just look for the lowest possible placed alternative
23 in most cases I would suggest to you.

24 And the opportunity there is huge because if you
25 can provide a high quality program with real educational

1 content and -- there are producers like ourselves and Sesame
2 Workshop and others who really can do that in an
3 economically feasible model for those networks, they will
4 run them. But that is where the rug comes in.

5 That is where I said to you that either the
6 leadership doesn't care about that or doesn't want to
7 advertise to parents what they are calling educational
8 programming or where they turn to Canadian or European
9 producers who can through tax incentives and credits
10 basically at half of the cost of that program subsidize.

11 And it expensive to produce kids' programming. On
12 an average half hour, it can be, you know, \$400,000.00,
13 \$450,000.00 to do a high quality half hour of animation.
14 You run that over 13 episodes, that is a five million dollar
15 commitment. And you've got to -- that financing has to come
16 from somewhere.

17 At places like Disney, they have such a strong
18 tradition of in-house capability and an ability to work with
19 folks like us that they can do it. But outside of those
20 two, I think we need to see -- we need economic models
21 perhaps that need to be revisited.

22 And Ms. Miller said something earlier that I think
23 this Commission should at least take notice of now in this
24 regard which is the same is happening on the internet. We
25 all know how much the internet and the new digital medium

1 can be a tremendously beneficial one for kids. But you are
2 running into some of the exact same economic issues there.

3 And I would strongly urge this Commission to take
4 a look at those issues, as well, because if we want that
5 medium to be as educational and as enriching for kids as it
6 can be, we are going to have to look at the economics of
7 that medium and encourage the opportunity to produce high
8 quality on that medium just as we need to do that in the
9 television medium, as well.

10 COMMISSIONER POWELL: I just want to sum up on my
11 question. I think you raised good points and I think I can
12 be the first to agree that leadership is important. But
13 also, my kids never heard of Anne Sweeney and they never
14 heard of Scanlon. They watch Nickelodeon and Disney because
15 they are good. And it is interesting that whenever you look
16 at these weekly ratings, you know, once you get past WWF
17 Wrestling, you get quickly to Nickelodeon.

18 And back to the Chairman's set of inquiry, we
19 should be looking at where there is success. And it is very
20 interesting to me that we see success. I think we do see
21 success in a number of the mediums. It would be interesting
22 to start to consider what aspects of those business models
23 and financial incentives promote those programming because I
24 think, you know, even Disney does a wonderful job, but they
25 don't do it out of charitable reasons. I would never expect

1 them to. And so I just think there is a lot of room to mine
2 there.

3 I also wanted to say something about Commissioner
4 Ness' questions about information. It didn't get mentioned
5 in the discussion which seems to me it should. One of the
6 things that is really entering the market place that I think
7 might be a very valuable addition to this is the rise of
8 programming guide technology.

9 I have been considering, you know, different
10 options, for example, recently about dish TV or cable. And
11 one of the things that I find most appealing is the ability
12 to have a much richer experience in the amount of
13 information about a program in advance.

14 A lot of these new interactive guides are allowing
15 the potential for pre-selection of programming, for example,
16 a kids button on the remote control that allows it to be
17 only the channels that you have selected based on the
18 information content. I think there is a lot that can be
19 done with the use of technology. And digital spectrum even
20 over the air will have some of that potential that I hope
21 gets realized.

22 COMMISSIONER TRISTANI: Mr. Chairman, can I
23 respond to that?

24 CHAIRMAN KENNARD: Commissioner Tristani.

25 COMMISSIONER TRISTANI: I just wanted to follow up

1 on a quick question I have for Mr. Steyer, but also note
2 something that about 25 percent of American households still
3 don't have cable. And a lot of those households are
4 minority. They are Latinos. They are African Americans.
5 And for those households and those families, the only option
6 out there is public television and the broadcasters. And we
7 cannot forget that. And I am not sure that that statistic
8 is going to change overnight because I believe it has been
9 pretty steady. So I wanted to note that.

10 I also wanted to ask -- and I really don't know
11 this. But you said it costs about \$400,000.00 per program
12 for children's programming on average. What does that
13 compare, if you know, with adult programming for a new
14 series per program?

15 MR. STEYER: Remember, that is per episode.

16 COMMISSIONER TRISTANI: Per episode.

17 MR. STEYER: Wouldn't you agree, Anne?

18 MS. SWEENEY: And there is a range, too.

19 MR. STEYER: There is a range depending on whether
20 it is animation or live action.

21 COMMISSIONER TRISTANI: But is it any different?

22 I am just curious, if you know. And maybe Ms. Sweeney could
23 answer that.

24 MS. SWEENEY: It is almost impossible to compare.

25 You could produce animation anywhere, as Jim said, from

1 \$500,000.00 an episode to a million. And --

2 COMMISSIONER TRISTANI: So --

3 MS. SWEENEY: -- a show -- a reality show on
4 network may be of a comparable budget.

5 COMMISSIONER TRISTANI: Okay. So you can't give
6 me any comparison.

7 MS. SWEENEY: No, there really isn't one.

8 COMMISSIONER TRISTANI: Okay. Can anyone? Maybe
9 PBS?

10 MS. NUGENT: I am not familiar with the specifics
11 of it.

12 MS. ALTMAN: Well, animation is going to be
13 expensive no matter how you label it. I think, you know,
14 the question is more in terms of non-animation cost of an
15 average sit-com or drama series as opposed to some kind of
16 children's show.

17 COMMISSIONER TRISTANI: I guess I was trying to
18 get at -- and I honestly don't know whether it is more
19 expensive to produce children's programming, or at least new
20 children's programming than adult programming.

21 MS. ALTMAN: No, no.

22 COMMISSIONER TRISTANI: Thank you.

23 DR. MONTGOMERY: Can I just add the other
24 important thing is that children's programming is becoming a
25 very important target market because children have increased

1 spending power. And that is likely to continue.

2 CHAIRMAN KENNARD: We are going to have to wrap
3 this panel up. Commissioner Ness will have the last
4 question.

5 COMMISSIONER NESS: I just had one more question.
6 We note about both in the statute and in the rules
7 providing for broadcasters or station licensees to fulfill
8 their obligations by contributing to programs that are aired
9 on another station within the market. This presumably was
10 focused in part on enabling educational television to get
11 additional funding to provide more quality programming, not
12 exclusively so.

13 The question that I have related to a proposal
14 that Henry Geller had made in a season -- he's in the
15 audience he will be testifying later about in lieu of having
16 each broadcaster air three hours of programming that it may
17 or may not really desire to air. Instead, maybe limit the
18 amount of that requirement. But rather contribute two
19 percent -- I forget what you had proposed Henry -- but two
20 percent of their revenues to public broadcast so that public
21 broadcast can fulfil that mission for the public on
22 broadcast television.

23 Would any of you like to comment on that as a
24 proposal?

25 DR. MONTGOMERY: Yes, I would. When it was

1 originally proposed when the Commission was considering the
2 current rules that were put in place in 1996, we were -- we
3 opposed pay or play which is really what you are talking
4 about here. And the main reason we opposed it was our
5 concern that the pay would be too small and the play really
6 would not exist and we would end up with kids being short
7 changed, that is, with public television, you know, being
8 given the pennies that really would not help them create
9 programming.

10 I think in the digital era, we are reconsidering
11 that position. And I think that should be one of the
12 options. We are proposing that there be a number of options
13 to digital broadcasting to serve children's educational and
14 informational needs.

15 I want to underscore, I think public television is
16 extremely important and we need to find ways to give it the
17 funding that it requires in order to serve children's needs.

18 Non-commercial content and services are going to be much
19 more important in this era of highly commercialized media
20 that would be pervasive in children's lives.

21 So if it can be done in a way that is really
22 meaningful and that would be a fair exchange and that would
23 increase the amount and the quality of programming and
24 services available to children in a non-commercial platform
25 on public broadcasting and digital television, I think it

1 would be a good idea. And I speak on behalf of my
2 organization only. This is something we are talking to the
3 rest of our coalition about. So that is my opinion.

4 MS. MILLER: I would like to echo Kathy's
5 comments. Children Now actually proposed a pay or play in
6 our comments to the FCC. And we recommended that with
7 several hesitations, again, the things that Kathy is
8 mentioning about the idea of commercial broadcasters not
9 paying out enough to make it really meaningful. In the end,
10 you have a dearth of programming or quality that is not
11 really good.

12 On the flip side, the idea that it could create a
13 lot of different choice and a lot more programming is a good
14 thing. And it is something that we recommend with
15 hesitations and are also going to be doing some more work
16 talking to academics about how we think such a proposal
17 could best serve kids.

18 MR. STEYER: Well, Commissioner Ness, the bottom
19 line for me would be it is clear that you need reforms of
20 subsidizing high quality content, educational content for
21 kids, non-commercial and even quality commercial content for
22 kids and that we must study that. The Commission can play a
23 great role in that.

24 In the meantime, however, while that is being done
25 -- and hopefully we are coming up with new solutions and new

1 resources in that regard -- I would keep the Commission's
2 role that they have done through the Children's Television
3 Act and the regs. which I think overall continues to serve a
4 beneficial purpose. So I would go pay and play.

5 CHAIRMAN KENNARD: Thank you, Jim. That will have
6 to be the last word. This has been a terrific panel. Thank
7 you all very much for coming here and presenting to us
8 today. We will take a ten-minute break and reconvene at
9 11:15. We are running a little bit behind schedule. So
10 everybody needs to be back here promptly at 11:15. Thank
11 you.

12 (Whereupon, a brief recess was taken.)

13 CHAIRMAN KENNARD: We will begin our second panel
14 of the morning now. This is a panel that will focus on
15 protecting children from the effects of sexually explicit or
16 violent programming. For those panelists who were not here
17 for the earlier panel, we have asked all the panelists to
18 keep their remarks to five minutes. There is a time clock
19 here. It will be green for four minutes, yellow for one
20 minute and when it goes on red, please sum up your comments.

21 Also, please introduce yourself and your
22 affiliation. We will begin with Vicky Rideout.

23 MS. RIDEOUT: Thank you. Good morning. My name
24 is Victoria Rideout and I am Vice President at the Kaiser
25 Family Foundation. It is great to be here with you today.

1 And I have been asked to provide information from several
2 recent studies by the foundation in response primarily to
3 two questions.

4 First, what is known about the amount and nature
5 of sexual content on television? And in 1999, the
6 Foundation worked with my colleague, Professor Kunkel,
7 further down the panel here to design a comprehensive
8 analysis of sexual content on television. And the study
9 analyzed a representative sample of both broadcast and cable
10 TV, covering all genres other than newscasts, sports and
11 children's programs.

12 The results indicate that more than half of all
13 shows on television today include sexual content. In other
14 words, if you turn on the TV, whatever the time of day,
15 whatever channel you are watching, whatever type of program,
16 the odds are about one in two that you will be watching a
17 show with some kind of sex.

18 If you narrow the focus to those shows that are
19 most widely watched, those that occur on network television,
20 broadcast networks and in the prime time hours, the odds of
21 encountering sexual content are higher. More than two out
22 of three prime time shows in the major networks include
23 sexual content.

24 Some of it is mild in nature and some of it is
25 more advanced. And our study found that about seven percent

1 of all shows included a depiction of sexual intercourse,
2 either actually depicted or strongly implied.

3 A second question I have been asked to discuss is
4 whether sexual content on television has an impact on those
5 in the viewing audience. One thing we know is that
6 television is an important source of information for young
7 people about sex. Sixty percent of young teens say they get
8 a lot of information about sexuality and sexual health.
9 They get ideas about how to talk about sexual issues. They
10 get information about sexually transmitted diseases, about
11 birth control, about pregnancy, about relationships from
12 television.

13 School, friends, parents and TV, that is basically
14 how teens today would rank their sources of information
15 about sex. But what kind of information and ideas about sex
16 are young people getting from TV? One thing we know is that
17 most shows on TV with sexual content don't even attempt to
18 send any kind of a broader message. In the study I
19 mentioned earlier, we found that only about one in ten shows
20 with sexual content include any reference to issues such as
21 abstinence, birth control, condoms or the possible emotional
22 or health-related consequences of sexual behavior.

23 But when health information is incorporated into
24 popular shows, TV can significantly increase public
25 awareness. For example, the Foundation conducted a study

1 among the viewers of the NBC drama, "ER", before and after
2 an episode in which a date rape victim takes emergency
3 contraception to prevent an unwanted pregnancy as a result
4 of her rape. And the percent of viewers who were aware of
5 the existence of emergency contraception increased from 50
6 percent before the episode aired to 67 percent in the week
7 after the episode aired.

8 And when we asked folks where did you learn about
9 this issue, 20 percent of them volunteered that they had
10 seen it on ER. In the public health world, that is a very
11 significant impact.

12 We also know that young people can be informed
13 through public service announcements on television. On MTV
14 and BET, for example, PSAs on sexual health are broadcasted
15 frequently in day parts when the audience is actually
16 watching. And as a result, nearly a million viewers have
17 called the hotline used in those ads to get more
18 information.

19 When the Foundation conducted a follow-up survey
20 with those callers, a third of the ones who were under 18
21 said that they had talked to a parent for the first time
22 about a sexual health issue as a result of the information
23 that they had received. And nearly one in five said they
24 had been to a doctor to be tested for HIV or another STD as
25 a result of the information that was part of that public

1 service campaign. Again, in the public health world, this
2 is a very powerful impact.

3 So in addition to exploring whether depictions of
4 sex on television can have a negative impact on youth, we
5 would also encourage the Commission to explore a companion
6 question. Can the television industry as part of its public
7 interest obligations contribute in a positive way to raising
8 awareness about important sexual issues and can do so in a
9 way that is consistent with freedom of speech and with its
10 mandate to entertain? And the answer to these questions is
11 clear. Yes, it can.

12 Public service advertising that occurs at times of
13 day when the targeted audience is tuned in can be a very
14 effective public education tool. Recent evidence indicates
15 that the amount of time available to PSAs has been
16 decreasing and that most of it occurs well after the
17 midnight hour. We hope that Chairman Kennard's recent focus
18 on public service announcements as a key component of
19 broadcasters' public interest obligations will receive the
20 Commission's close consideration. With that, I will
21 conclude my remarks. Thank you.

22 CHAIRMAN KENNARD: Thank you very much. Ms.
23 Strossen.

24 MS. STROSSEN: Thank you very much, Chairman
25 Kennard. My name is Nadine Strossen. I am the President of

1 the American Civil Liberties Union. And I am a Professor of
2 Law at New York Law School where I specialize in
3 Constitutional law. I certainly share Commissioner
4 Tristani's frustration at the short amount of time we have
5 for such a broad and important topic.

6 And I just want to say at the outset that I
7 listened with great interest to the opening remarks of the
8 Chairman and all of the other Commissioners. And I would
9 love to have the chance to engage in colloquy with all of
10 you, perhaps during the question and answer session during
11 the very important points you made there, as well as all of
12 the questions you enumerated for us.

13 However, I am going to abide by the new
14 technological form of censorship that we have with us today.
15 Speaking of which, seriously, of course, as the head of the
16 American Civil Liberties Union, I am profoundly concerned
17 about the First Amendment issues that are raised by even
18 indirect forms of government regulation on the broadcast
19 media.

20 And beyond the First Amendment concerns though --
21 and I do have to emphasize, the First Amendment rights at
22 issue here are not only those of adults, but also those of
23 minors. I am proud that the ACLU has long advocated minors'
24 rights to access information including the very valuable
25 kind of sexually oriented information on the broadcast that

1 we have just heard about from the previous speaker, Vicky
2 Rideout.

3 But there are other rights concerned here, too.
4 And I want to say at the outset that our view is that all of
5 them are jeopardized by any move to restrict the kind of
6 content that is being singled out here. Among other things,
7 the right, as well as the responsibility, of parents to
8 shape the education and upbringing and values of their own
9 children. That is as profoundly important Constitutional
10 right which not only the ACLU, but far more importantly, the
11 United States Supreme Court recognizes and one that we feel
12 would be undermined by too much government intervention
13 here.

14 Last but very, very far from least, of course, is
15 the right to physical safety, freedom from violence to avoid
16 the kind of massacres at Columbine that Commissioner Ness,
17 among others, talked about. And here, you know, many people
18 feel that we have to engage in a trade-off, on the one hand,
19 freedom of speech, on the hand, freedom from that kind of
20 horrible, physical violence.

21 Actually, nothing could be further from the truth.
22 We need not engage in that kind of trade-off. And one of
23 our concerns about the focusing on the media, some would say
24 the scapegoating of violent and sexual imagery on the media
25 is what a diversion it is from what many experts consider to

1 be far more profound causes of violence and inappropriate
2 sexual content and far more effective needs for redressing
3 that violence and preventing that violence.

4 And here, let me not quote the ACLU. It wouldn't
5 surprise you that we would oppose restrictions on the media.

6 But it might surprise you that in discussions that I have
7 had with Ernie Allen, the Chair or the Executive Director of
8 the National Center for Missing and Exploited Children who
9 has agreed with the ACLU that stigmatizing the media,
10 focusing efforts on stopping what images children can see on
11 the media is at best an ineffective way of protecting actual
12 children from actual violence.

13 At worst, it is counter-productive because it
14 diverts us from what social scientists and other experts
15 have said are far more effective constructive needs of
16 dealing with not only the violent imagery that is so
17 prevalent in the media, in television as we have heard.

18 But as Commissioner Furchtgott-Roth said in his
19 opening remarks, violence is ubiquitous not only in other
20 media, but in real life. And we have to concentrate on
21 preparing our nation's young citizens to deal with
22 effectively the images of violence, some appropriate, that
23 they are going to see on TV screens and some inevitable that
24 they are going to see in real life, on the streets of our
25 cities unfortunately.

1 Therefore, all of us have to exercise our
2 responsibility as parents and as educators to instill
3 critical dealing skills in our young people to empower them,
4 to empower the parents to help them and not, in fact, to
5 usurp the parental role through over-intrusive government
6 actions.

7 Let me just conclude, as I see the yellow light is
8 on, by saying I think it is quite foresightuous that this
9 important hearing is taking place today in the same city, on
10 the same day as the Million Family March. As I am fond of
11 saying, the ACLU is a pro-family organization. We just
12 don't believe that big brother is an appropriate member of
13 the traditional American family. Thank you.

14 CHAIRMAN KENNARD: Thank you very much. Mr. Corn-
15 Revere.

16 MR. CORN-REVERE: Thank you, Mr. Chairman,
17 Commissioners. My name is Robert Corn-Revere. I am a
18 Partner at Hogan and Hartson and an Adjunct Professor of Law
19 at Catholic University. I am also a former staff member of
20 the Commission. And so it is good to be back and this time
21 speaking and writing in my own name.

22 The testimony today represents my personal views.
23 I am not testifying on behalf of any client or any other
24 group. The prepared statement that you have in front of you
25 actually reflects a discussion of broader First Amendment

1 issues. When I was first invited to testify, it was with
2 the understanding there would be a panel on those broader
3 issues.

4 So I will touch on that briefly and then talk
5 about the specific content areas on this panel. As the FCC
6 contemplates new or expanded public interest requirements
7 for broadcasters, it should keep in mind that the current
8 latitude it currently has to regulate broadcast content is
9 really a limited exception to traditional First Amendment
10 analysis.

11 If any of the content-based regulations that are
12 often proposed for broadcasters were considered for a minute
13 being applied to other media, they would be instantly stuck
14 down in being unconstitutional. New requirements for
15 broadcasters, therefore, would place added stress on this
16 analysis and I think would be likely to lead to a
17 Constitutional challenge.

18 Spectrum scarcity upon which this lesser degree of
19 Constitutional protection is generally based is really no
20 longer a viable theory, something that I discussed more in
21 my prepared remarks. Beyond that, the social compact theory
22 that the government may demand content controls in exchange
23 for giving spectrum I think is no more valid.

24 When Justice Oliver Wendall Holmes wrote of a
25 marketplace of ideas, I don't think he was suggesting that

1 the government could be the purchaser or the media companies
2 could be the sellers of Constitutional guarantees. Beyond
3 that, the Supreme Court has held that federal subsidies for
4 public broadcasting to not empower the government to
5 restrict the editorial freedom of those licensees. I think
6 the same principle applies here whether you are talking
7 about a "subsidy of spectrum" or a subsidy of taxpayer
8 dollars.

9 Specifically with respect to the content issues
10 that are being discussed in this panel, I think that the
11 same thing would be true in terms of the Constitutional
12 analysis. Regulating violence in the media is a far more
13 complex issue than is being presented generally in
14 Washington policy debates. And so I commend the Commission
15 for raising this issue today. I particularly commend the
16 Commission for bringing balance to testimony that so often
17 is missing in Congressional hearings on this subject.

18 Now, while there isn't time to get into a specific
19 discussion of the Constitutional issues involved in
20 regulating violent content on television, I think that it is
21 useful to point to an excellent Law Review article that I
22 would commend to the Commission. I would ask that it be
23 made part of the record by Chief Judge Harry Edwards of the
24 United States Court of Appeals for the District of Columbia
25 Circuit, called, "Regulating Violence on Television." It

1 was published in 1995.

2 In that article, Judge Edward took the available
3 social science data on violence and analyzed it in light of
4 First Amendment concerns. They reached the conclusion that,
5 "When it comes to televised violence, we cannot imagine how
6 regulators can distinguish between harmless and harmful
7 violent speech. We can find no proposal that overcomes the
8 lack of supporting data."

9 They added, "We cannot imagine how a regulator
10 might fix rules designed to ferret out gratuitous violence
11 without running the risk of wholesale censorship of
12 television programming." Now, I raise this in part because
13 this article came up in earlier testimony at the Senate
14 Commerce Committee on the violence safe harbor bill about a
15 year ago. And one of the other witnesses who was a social
16 science expert responded that Judge Edwards has no business
17 opining on social science issues. After all, he is merely a
18 lawyer. He is really not equipped to understand these
19 issues.

20 And I guess it reminded me most of the line from
21 Dr. Peter Vankman, Bill Murray's character in
22 "Ghostbusters", when he said, "Back off, man. I am a
23 scientist." I think these issues are fully understandable
24 for those of us who are not social scientists. I only have
25 a master's degree in social science. I think I can

1 understand these issues. And I think others can, as well.

2 The other issue I would like to touch on is the
3 overall question of what is increasingly being lumped under
4 the general topic of inappropriate content. Last May, an
5 organization called the Parents Television Council released
6 the results of what it called a study which purported to
7 show that offensive content on television had increased
8 since the advent of the V-chip. It listed 25 shows that it
9 considered to be the biggest offenders.

10 Now, of these programs, nearly half had won or had
11 been nominated for Emmy awards. They were the highest rated
12 programs on television. And as a matter of fact, their list
13 sounded much like a roll call of the best in television.
14 The worst offenders according to this list included "The X
15 Files", "NYPD", "ER", "Homocide", "Frasier", "Friends", and
16 it goes on and on.

17 The reason I mention this is particularly in light
18 of the testimony of Ms. Rideout when she says that "ER"
19 provided valuable information about sexual content, about
20 sexual information. And yet if the exercise becomes simply
21 trying to police the airwaves for mentions of "inappropriate
22 content", I think we may be missing the ball and censoring
23 or at least threatening to censor what is the best of
24 television.

25 CHAIRMAN KENNARD: Thank you, Mr. Corn-Revere.

1 Mr. Kunkel.

2 DR. KUNKEL: My name is Dr. Dale Kunkel, the
3 University of California, Santa Barbara. I am a social
4 scientist. But since I am here talking about law and policy
5 as a social scientist, I am happy to receive Mr. Corn-Revere
6 and all others in the legal profession talking about social
7 science.

8 I am one of several researchers who led the
9 National Television Violence Study, or the NTVS, a three-
10 year project sponsored by the NCTA that examined the
11 depiction of violent behavior across more than 8,000
12 programs. I have also completed a major study funded by the
13 Kaiser Family Foundation that assessed the accuracy of the
14 V-chip ratings applied to programs of other television
15 industry.

16 In my remarks today, I will briefly summarize key
17 findings from each of these two studies. The NTVS project
18 represents the largest investigation of media violence yet
19 produced by the scientific community, involving more than a
20 dozen of the nation's leading media researchers from four
21 universities. The central element of the project is a
22 content analysis of the nature and extent of violence on
23 television.

24 Over a three-year period, from 1994 to 1997, we
25 systematically examined the content on 23 of the most

1 frequently viewed channels on TV. In our research, we did
2 not simply count up all violent actions as most previous
3 studies had done. But rather, we carefully analyzed the
4 context surrounding it.

5 The presence or absence of different contextual
6 features has been shown to either increase or diminish the
7 likelihood of harmful effects from children's exposure to TV
8 violence. By tracking the pattern of contextual features
9 associated with most violence on television, our research
10 allows us to evaluate the risk of harm from children's
11 exposure to different types of violent material.

12 At the end of the three-year NTVS study, we
13 reached several key conclusions. First, violence is
14 widespread across the television landscape. Turn on a
15 television set, pick a channel at random. The odds are
16 about six out of ten that the program you encounter will
17 include some form of violence. An average week of
18 programming on 23 channels contains more than 6,000 violent
19 interactions. More than half of the violent shows contain
20 lethal acts and one in four of the programs with violence
21 depict the use of a gun.

22 Second, most violence on television is presented
23 in a manner that increases its risk of harmful effects on
24 child viewers. More specifically, most violence follows a
25 highly formulated pattern that is both sanitized and

1 glamorized. By sanitized, we mean that portrayals fail to
2 show realistic harm to victims. Immediate pain and
3 suffering by victims of violence is included in less than
4 half of all scenes of violence.

5 More than a third of violent interactions depict
6 unrealistically mild harm to victims, grossly understating
7 the severity of injury that would accrue from such actions
8 in the real world. In sum, most depictions sanitize
9 violence by making it appear to be much less painful and
10 less harmful than it really is. And by glamorized, we mean
11 that violence is performed by attractive role models who are
12 often justified for acting aggressively and who suffer no
13 remorse, criticism or penalty for their violent behavior.

14 Third, the overall presentation of violence on TV
15 has remained remarkably stable over time. I have submitted
16 a table of data that reports findings from three recent TV
17 seasons which illustrates the tremendous consistency across
18 virtually all of our measures. That consistency clearly
19 implies that the portrayal of violence is highly stable and
20 formulaic. And unfortunately, this formula of presenting
21 violence as glamorized and sanitized is one that actually
22 increases the risk of harmful effects for children.

23 At the conclusion of the NTVS study, the Kaiser
24 Family Foundation commissioned another project to -- or a
25 project to evaluate the accuracy of the ratings applied to

1 programs by the television industry's V-chip system. This
2 study provides us with two key conclusions, the first of
3 which is actually good news.

4 In general, the age-based ratings for most general
5 audience programs are applied in accurate fashion. Although
6 the TV-NA rating is almost never used, the study indicates
7 that programs with the strongest and most troubling violence
8 tend to receive a TV-14 rating and that TV-G programs
9 generally contain little or no violence, just as the rating
10 system indicates. Clearly, this represents a good faith
11 effort on the part of the industry to apply age-based
12 ratings accurately to their programs.

13 But the second point is not good news. Content
14 descriptors are not being applied to the vast majority of
15 shows that contain violence. The TV industry agreed to add
16 content descriptors in response to public concern that the
17 original age-based rating system did not provide adequate
18 information for parents. Several content descriptors,
19 including a V for labeling violent programs, were added to
20 the system.

21 The V-chip study found that the vast majority of
22 programs which contained violence did not receive a V
23 rating. While 21 percent of programs with violent material
24 did display a V, 79 percent did not. Now, you might ask,
25 are the programs that lack this V rating really the ones

1 that feature an isolated scene of violence of some limited
2 form of violence. But the answer is no.

3 Our study indicates that these -- we found 318
4 programs in one week that did not get the V rating. They
5 averaged five scenes of violence with a moderate level of
6 intensity. This means a parent who would choose to block
7 out programs with a V rating who might reasonably assume
8 they are screening out this violent material would be making
9 a serious mistake in using the system in this way.

10 To conclude, it is well established by a compelling
11 body of scientific research that TV violence poses a risk of
12 harmful effects to children. The NTVS project demonstrates
13 that most TV programs contain violence and importantly that
14 most violence is presented in a fashion that increases its
15 risk of harmful effects.

16 The most recent attempt to address this concern is
17 the V-chip technology. But the findings from the Kaiser
18 Foundation study finds a serious threat to the utility of
19 the V-chip. If violent programs are not accurately labeled,
20 then even the most pro-active, well-intentioned efforts of
21 parents who use the V-chip device cannot effectively reduce
22 children's exposure to TV violence. Thank you.

23 CHAIRMAN KENNARD: Thank you, Dr. Kunkel. Dr.
24 Cantor.

25 DR. CANTOR: Thank you. My name is Joanne Cantor.

1 And I have been doing research on the impact of television
2 on children at the University of Wisconsin for more than 26
3 years, focusing on the consequences of exposure to media
4 violence and the impact of television and movie ratings. I
5 have also written a book titled, Mommy, I'm Scared, that
6 helps parents help their children cope with our violent
7 media culture.

8 I presented many of these arguments in greater
9 detail at the recent American Psychological Association
10 Convention. That speech, including reference to the
11 original research that I mentioned, is available on my
12 website, www.joannecantor.com, for anyone who wants further
13 detail.

14 I know you have already heard the standard
15 arguments about media violence research. It is true that
16 the meta analyses that combine all the relevant studies make
17 a clear case that viewing media violence is a significant
18 contributor for violent behavior. But rather than focus on
19 criminal violence, I want to highlight certain results that
20 show psychological harm in a more immediate fashion. I will
21 give three examples of the types of harm I am talking about.

22 First, children often imitate what they see on
23 television. And this imitation is not limited to playful,
24 harmless behavior. For example, a national survey of Israel
25 middle schools confirmed that when World Wrestling

1 Federation was introduced in the mid-'90s, it led to a
2 national epidemic of serious playground injuries including
3 broken bones and concussions because children, even those
4 who knew that what they were seeing was not real, imitated
5 the violence they saw.

6 Second, exposure to media violence increases
7 hostility levels, not just immediately after viewing, but
8 for a substantial period of time thereafter. And these
9 increases in hostility can make an otherwise neutral
10 interaction seem like a provocation. For example, one study
11 showed increasingly hostile interpersonal interactions even
12 a day after viewing intensely violent movies.

13 Third, a growing research literature shows that
14 exposure to media violence often induces intense fears which
15 can produce nightmares and interfere with a healthy night's
16 sleep. For example, a recent study in pediatrics reported a
17 positive association between television viewing and sleep
18 disturbances among elementary school children. Indeed, nine
19 percent of parents said that TV had caused their child to
20 have nightmares at least once a week.

21 Other research shows that stumbling into the wrong
22 program or movie on television can induce debilitating
23 anxieties that last for months and even years. Incidentally,
24 the recent uproar over the Nike ad shown during the
25 Olympics, the one that depicted a young woman being attacked

1 in her bathroom by a chainsaw-wielding lunatic, demonstrates
2 how vulnerable young children are to gory and grotesque
3 images, even very brief ones.

4 It is important to recognize that the remedy for
5 these harms is not censorship, but public information. Just
6 as parents need information about nutrition and labels that
7 indicate the contents of what their children eat, they need
8 an honest appraisal of the risks to their children's mental
9 health that are posed by different programs. It should then
10 be up to the parents to judge their child will imitate the
11 violence, become increasingly hostile or be unable to sleep
12 after viewing.

13 If these are effects parents want to avoid, they
14 should be able to decide whether they prefer to limit their
15 child's exposure or to work with their child to counteract
16 the effects. Parents can't make these decisions if they
17 don't get this information. The risks are not being
18 communicated fairly by the media. At best, the picture is
19 confusing.

20 What is more, although parents have already one
21 potentially valuable parenting tools, TV ratings and the V-
22 chip, they aren't hearing about them. Broadcasters claim to
23 be promoting the rating system. But the proof is in the
24 results.

25 According to a recent Annenburg study, fewer

1 parents are now aware that we have a TV rating system, 50
2 percent, than knew about TV ratings in 1997, 70 percent.
3 And a woefully small percent know how to interpret the
4 ratings. I have yet to meet a parent who knows what the D
5 in the rating system refers to. And I wonder how many
6 people here do.

7 Of course, broadcasters should be urged to program
8 in a responsible fashion. But even if they decided to
9 broadcast only quality programs at the level of "Shindler's
10 List" or "Saving Private Ryan", parents would still need to
11 know the content and risks in advance. This is because
12 children of different ages are affected differently by the
13 same media images. We know from research that young
14 children are apt to miss the intended meaning of a program.
15 A masterpiece that would edify a teenager might very well
16 traumatize a younger child for months.

17 Clearly, censorship is not the answer. But
18 information is. And in addition to information about
19 programs, parents need more predictability in the content of
20 commercials. Children tuning into family-appropriate shows
21 like the World Series or the Olympics should not have gory
22 and grotesque images from advertising inflicted upon them.

23 Lots of people say it is the parents'
24 responsibility to raise their children. And as the mother
25 of an 11-year-old son, I agree. But in order for us to do a

1 good job of parenting, we need three things: unbiased
2 information about the risks and benefits of media exposure;
3 understandable, timely information about what is in a
4 program; and an assurance that our children won't be
5 ambushed by horrifying images and inappropriately placed
6 ads. These actions should be at the top of the list of
7 broadcasts' obligations to children. Thank you.

8 CHAIRMAN KENNARD: Thank you very much, Dr.
9 Cantor. Dr. Jenkins.

10 DR. JENKINS: Mr. Chairman, I am Henry Jenkins,
11 the Director of the Comparative Media Studies Program at
12 MIT. For the past 17 years, I have made the study of
13 American popular culture the central focus of my teaching
14 and research.

15 Many of the others testifying here come from
16 traditions of experimental or quantitative research in the
17 so-called media facts. I represent a different tradition in
18 media studies that employs more qualitative methods
19 including those derived from anthropology, history and
20 literary analysis.

21 My research addresses the meanings that get
22 attached to cultural symbols and the way that people in
23 specific social and cultural contexts interact with media.
24 I come here neither as an apologist for the media industry,
25 nor as an advocate for media reform, but as a concerned

1 citizen who cares about both the quality of our culture and
2 the protection, of course, of civil liberties.

3 So often this gets framed as the free expression
4 right of broadcasters against the public interest. And I
5 feel rather strongly as a father that I have a public --
6 there is a public interest of my right to determine what
7 culture my son consumes based on my values and not someone
8 else's.

9 And then I have a compelling public interest in
10 making choices that allow me to deal with complex subject
11 matter, not simply predigested form, and that my son has
12 certain rights as an adolescent to carve out a cultural
13 space for himself by which he explores his identity and his
14 values.

15 And one of the things that struck me since
16 Columbine has been a tendency to use protecting children as
17 a code word for, in fact, regulating adolescents. And I
18 think most of us might agree that we need to set different
19 standards that are appropriate for teens versus children.
20 And we need to be careful as we go forward that we are not
21 infringing on the rights of teens in the name of protecting
22 smaller children.

23 Despite the cultural rhetoric that has come out of
24 Washington since Columbine, cultural works are not
25 carcinogens. Cultural works are complex and contradictory.

1 They are open to many different interpretations, subject to
2 various unanticipated use. Popular culture's complex
3 relationship with its consumers cannot be reduced to simple
4 variables or tested through live experiments without regard
5 to larger cultural context.

6 Quantitative research needs to be read not in
7 isolation, but in relationship with more qualitative
8 approaches. Out of respect to many of the noted researchers
9 on the panel, I should make clear that my concern is not
10 when media research affects research per se, but really the
11 way in which media research gets mobilized by activists in
12 the context of public policy debate.

13 The best media effects researchers qualify their
14 findings and few argue for a direct causal link between
15 consuming media images and performing violence. A more
16 careful analysis would read violent programs as one cultural
17 influence among many, thus, having different degrees of
18 impact upon different children and is not sufficient in and
19 of themselves to inspire an otherwise well-adjusted child to
20 engage in acts of violence.

21 Media activists often strip aside those careful
22 qualifications, claiming the computer games are murder
23 simulators, that media violence darkens children's minds or
24 pollutes their heart. Media activists are often
25 indifferent, for example, to even crudest distinctions

1 between developmental stages, taking studies made about
2 young children as if they applied to everyone under the age
3 of 18. The result is a caricature of the media effects
4 research which allegedly underlines their recommendation.

5 They often are made without regard to the context
6 in which the events occur in stories or their emotional
7 tone. Often we are told to depict something is to advocate
8 it. To advocate it is to cause it as often the focus is on
9 localized images and not the range of stories we as a
10 culture tell about violence or what they mean to the people
11 who consume them. And often, the focus is on measurable
12 biological responses, and not on the conscious activity of
13 media consumers as they make sense of what they have seen.

14 Humanistic research paints a very different
15 picture. First, media consumption is thought to be
16 something active, something we do, not something passive
17 that happens to us. Media technologies are tools and we can
18 use them in a variety of different ways, some constructive,
19 some destructive.

20 Second, media consumption is a process. We work
21 on media content over a long period of time. Immediate
22 emotional reactions are only a part of what we need to
23 understand if you want to predict real world consequences in
24 media consumption.

25 Third, different consumers react to the same media

1 content in fundamentally different ways as it is fit to
2 their larger understanding of the world. And so the
3 universal claims offer a fundamentally inadequate account of
4 media's social and cultural impact.

5 Fourth, media consumption is more often creative
6 than imitative. All of us construct our own personal
7 mythologies from contents made available to us through mass
8 media. And we are drawn toward images and stories that are
9 personally meaningful to us because they match the way we
10 see the world. We use them as vehicles for better or for
11 worse to explore who we are, what we want, what we value and
12 how we relate to other people. And we explore the broader
13 range of ideas and experiences through our fantasies than we
14 would care to act upon reality.

15 Finally, media representations are read against
16 our perception of the world that is built up through
17 countless direct experiences. Media content is more likely
18 to reinforce than fundamentally alter our existing prejudice
19 and predispositions.

20 Let me cut to the quick and say what I think could
21 be done in this area. I support much of what was said in
22 the last panel about a proactive desire to create diversity.

23 I would be opposed to regulation that restricted content.

24 I think there are three areas that we need to work
25 on. One is a broader composition of government

1 investigations into media violence. We need to include
2 qualitative humanistic scholars, anthropologists, critics,
3 experts on play in the mix as we begin to deal with these
4 questions. And they need to be there along side media
5 effects. In Europe, in Australia, mixed panels have been
6 put forward and develop more subtle solutions. And I think
7 that is a really important thing to do.

8 Secondly, and I would agree with Joanne Cantor,
9 education, education for kids who need to be taught to be
10 critical, ethical and creative users of media, and education
11 for parents who need to be given information that allows
12 them to make meaningful choices. And that information has
13 to include not just a blunt reading, but some values that
14 determine what that rating is set by.

15 I often find that the ratings communicates
16 privilege, some values over others as a parent who cares
17 about homophobia, for example. When I watch a sit-com that
18 deals in a caring relationship between a lesbian couple that
19 has a higher rating than a sit-com that makes random jokes
20 about heterosexual infidelity, it is troubling to me.

21 CHAIRMAN KENNARD: Please wrap up, Dr. Jenkins.

22 DR. JENKINS: Thank you.

23 CHAIRMAN KENNARD: Okay. Mr. Peters.

24 MR. PETERS: My name is Robert Peters. I am
25 President of Morality in Media. On October 7th, my wife and

1 I saw, "Remember the Titans", a film based on the experience
2 of a high school football team forced to integrate in 1971.

3 I remember as a child listening to college
4 football and running out to play football in the yard,
5 street or park. I remember in high school watching
6 professional football players on TV and then trying to
7 imitate them during practice in high school football games.

8 I also remembering the rewarding experience of playing on a
9 racially integrated football team in college.

10 As I walked out of the theater after seeing
11 "Remember the Titans", I wanted to hug every African
12 American I saw. Hugging aside, the film was a powerful
13 reminder that racial reconciliation ought to be a high
14 priority on everyone's list.

15 But as I walked home, I wondered how I would have
16 felt if I were still 16 and if "Titans" were a violent film
17 glamorizing the behavior of an integrated group of high
18 school football players who fight a local drug problem by
19 beating up drug dealers. Being an aggressive person by
20 nature, I might have felt like joining in.

21 There are, of course, reasons why most kids
22 wouldn't. They know right from wrong. They love and
23 respect their parents. They don't want to go to prison.
24 They aren't emotionally troubled, angry at the world. They
25 don't have to prove how tough they are. They've got better

1 things to do.

2 But it doesn't take a social scientist to realize
3 that many teens can rattle off a list of good reasons why
4 they shouldn't join a gang of vigilantes. They are the
5 vulnerable ones. As my wife and I talked about "Titans", we
6 were glad it didn't portray athletes cursing, having sex and
7 abusing alcohol and drugs.

8 Of course, if such behaviors were portrayed
9 negatively as bigotry was in "Titans", kids would presumably
10 benefit from the lesson. "Shindler's List" was shown in
11 public schools and on prime time broadcast TV because
12 educators and the media believed it would have a positive
13 influence on youth.

14 The media then tells us that there is no proof
15 that entertainment glamorizing and promoting anti-social
16 behaviors influences youth. But if it does, they add, it is
17 up to parents, not the media or government, to address the
18 problem. I am not trying to get parents off the hook. They
19 are in great measure responsible for how their kids behave.

20 But it is no secret there are other influences on
21 children. I will spare you my written comments on that
22 testimony. I would be voting for Hillary. But to some
23 extent, I think it takes a village to raise a child.
24 Included in that village are broadcasters which should be
25 doing all in their power to reduce the risks that children

1 would be harmed by programming. If they had done so, we
2 wouldn't all be here this morning.

3 That brings me to the role of government. While I
4 agree that government can't protect children from all sexual
5 and violent content, I also reject the notion that the First
6 Amendment prevents government from enacting effective laws
7 to help protect children from such conduct.

8 One existing law that could at least help is the
9 broadcast indecency law. I won't add further on my written
10 comments, but it is a law that isn't being enforced against
11 television stations. And it would help. It wouldn't solve
12 the whole problem, but it would help.

13 There is, again, talk about enacting federal laws
14 to regulate children's access to violent entertainment. Not
15 surprisingly, the media is again waiving the banner of the
16 First Amendment, asserting with its typical pomp that the
17 Constitution protects the right of media to pour graphic,
18 gratuitous violence down the throats of children as long as
19 it is theoretically possible for parents or angels I guess
20 to shield them without government's help.

21 I understand that the media have legitimate
22 concerns about government attempts to regulate violence.
23 Certainly, the definitional issue probably being the
24 preeminent one. But unlike some Supreme Court Justices, I
25 think there is a real difference for Constitutional purposes

1 between a law that bans speech that government disapproves
2 of and a law regulating children's access to smut or graphic
3 violence which incidently burdens, but does not block adult
4 access to that speech.

5 And quickly jumping over, in written comments that
6 we submitted earlier in this proceeding, we asserted that
7 the V-chip is not the whole answer to this problem. I
8 certainly agree it is part of the answer. I would comment
9 that to my knowledge, virtually -- it may be true that most
10 violent programs are accurately rated.

11 But to my knowledge, virtually every prime time
12 program, certainly a large number are rated either G or PG
13 which means that according to the industry, ever adult sit-
14 com on TV is okay for certainly kids other than seven and
15 eight-year-olds. And if that is the way -- if appropriate -
16 - if a parent blocks out the -- you know, if she wants to
17 block out some of these sit-coms, she would wind up -- he or
18 she, I should say, would wind up blocking virtually every
19 program on prime time television.

20 If you go up to PG-14 or TV-14, you virtually
21 block no prime time TV programs. How are you going to use a
22 V-chip when almost all of the prime time adult-oriented sit-
23 coms are rated G or PG which means according to the
24 industry, they are okay for kids? Thank you.

25 CHAIRMAN KENNARD: Thank you, Mr. Peters. I'll

1 get my hug from you later. Thank you all for the
2 presentations that you made today. There are a lot of
3 divergent and very interesting views presented. And I want
4 to ask each of the panelists one question that I will think
5 help this agency focus attention on what actions we should
6 or could take in this area.

7 We are going to ask each of you if you could
8 single out one thing that this agency could do, the most
9 significant thing, the most important thing that this agency
10 could do to combat the relationship between violence and sex
11 and the outcomes in our society. And, obviously, the
12 premise of my question is that I do believe that there --
13 certainly with respect to violence, that there is an
14 incremental negative impact of television violence on our
15 society and particularly with our kids.

16 So I would like each of you to answer that
17 question. Just give me one thing if you had one shot. And
18 I know for Ms. Strossen and Mr. Corn-Revere, this might be a
19 difficult question for you to answer. But let's start with
20 Ms. Rideout.

21 MS. RIDEOUT: Well, I should preface my remarks by
22 saying the role that the Foundation takes in all of this is
23 to be the agency that helps provide the data and information
24 and research that you policy-makers need and find helpful as
25 you consider these questions rather than to take particular

1 positions on issues.

2 But I guess I would say that where our research
3 seems to point is in two direction. It is, first of all, in
4 doing more to empower parents with information and tools, to
5 make their own decisions as to how they want to monitor
6 their children's media consumption and secondly, to probably
7 consider measures you can take to increase the amount of
8 positive educational and informational programming that is
9 available, whether it is public service announcements, other
10 long-term, long-form public informational types of
11 programming or actual content themselves.

12 CHAIRMAN KENNARD: Thank you. Ms. Strossen.

13 MS. STROSSEN: Thank you for that provocative
14 question, Mr. Chairman. I do have some constructive
15 suggestions, although first I have to decent from what I
16 think is the premise in your question that the relationship
17 between violence and sex in the media is -- on the media and
18 real-world outcomes, number one, is substantial. And I will
19 defer social scientists who have, indeed, questioned that
20 including most recently in the FTC report that came out a
21 couple of weeks ago. The FTC was very careful to stress the
22 kind of ambiguity and complexity that we heard from Mr.
23 Jenkins. Secondly --

24 COMMISSIONER TRISTANI: Ms. Strossen --

25 MS. STROSSEN: I'm sorry?

1 COMMISSIONER TRISTANI: -- have you read that
2 report?

3 MS. STROSSEN: Yes, I have.

4 COMMISSIONER TRISTANI: You have?

5 MS. STROSSEN: Yes. And I have read the
6 appendices --

7 COMMISSIONER TRISTANI: Do you recall whether they
8 actually studied that?

9 MS. STROSSEN: They had a review which was --

10 COMMISSIONER TRISTANI: But did they undertake any
11 new research on that as far as --

12 MS. STROSSEN: Absolutely not on --

13 COMMISSIONER TRISTANI: -- they were recording the
14 same kind of studies that their study --

15 MS. STROSSEN: No, it was not the focus of their
16 study.

17 COMMISSIONER TRISTANI: That's all I wanted to
18 know.

19 MS. STROSSEN: But they -- but I think it is
20 important because it is so often misstated as these same
21 meta studies are referred to as if everybody agrees that
22 they show a clear and simple causal connection.

23 COMMISSIONER TRISTANI: I will save a question for
24 later.

25 MS. STROSSEN: Okay. And, secondly, I think it is

1 important to emphasize that some of the real world outcomes,
2 if we are going to accept a causal connection, then I think
3 we also have to accept the sum of the causal connections
4 would be with positive real world outcomes such as Ms.
5 Rideout described, more information that will help people to
6 lead sexually more healthy lives and to counteract violence
7 in a positive way.

8 So I agree with the suggestions she made. In
9 addition to encouraging broadcasters to include serious,
10 valuable discussions of -- in treatments of violence and sex
11 -- and we have heard many examples from "ER" to "Shindler's
12 List." And by the way, "Shindler's List" should get every
13 single rating. Right? It's got violence and sex and
14 language and indecency. And yet I don't think any of us
15 would want to deny a parent the choice to have a child of a
16 certain age and maturity see that in a certain context.

17 That leads to my next point which is the blunt
18 instrument of the V-chip cannot be enough information for
19 any conscientious parent. And obviously --

20 CHAIRMAN KENNARD: Actually, I just asked one
21 thing that we can do --

22 MS. STROSSEN: Yes.

23 CHAIRMAN KENNARD: -- not that we shouldn't do.

24 MS. STROSSEN: Yes. Well, I am saying you can
25 encourage the serious treatment of -- and the programming of

1 materials such as "Shindler's List", such as "ER", despite
2 the fact that they would be getting these seemingly negative
3 ratings. I think in terms of the technology, as I
4 understand it, the move toward digital broadcasting would
5 make it possible to go beyond the necessarily over-
6 simplified.

7 I think we have a lack of meaningful information
8 from those four letters, to provide much more descriptive
9 and analytical information including reviews with respect to
10 not only those categories, but other kinds of criteria such
11 as Dr. Jenkins suggested.

12 Other parents might be interested in racism or
13 sexism or, you know, anti-religious views. To really
14 amplify the amount of information that is easily accessible
15 over the screen so that a parent can make a more informed
16 choice.

17 CHAIRMAN KENNARD: Okay. Thank you. Mr. Corn-
18 Revere.

19 MR. CORN-REVERE: Thank you. I knew I was going
20 to be getting difficult questions today. So I'm glad that
21 Jackson, my eight-year-old son, gave me his lucky rock to
22 keep in my pocket while I was testifying. And you
23 anticipated my answer or, as you anticipated, non-answer. I
24 really don't think there is anything that the Commission can
25 legitimately do to regulate what I consider to be a matter

1 of taste.

2 Often, this debate is framed as one of regulating
3 things that are harmful to kids. And yet I think what
4 really this comes down to in many cases is a matter of
5 taste. And nothing better illustrates this than Mr. Peters'
6 testimony from a few minutes ago when he was talking about
7 the uplifting nature of "Remember the Titans" where he said
8 that it presented such good messages. But what if it had
9 presented harmful messages and it promoted, you know, kids
10 going out and doing terrible things and being violent and
11 all of that?

12 I think just as much needs to cross our minds if
13 "Remember the Titans" encourages our kids to go out and
14 become football players. And would we consider that to be
15 something beneficial, or go out and play soccer. As a
16 matter of fact, if you are just talking about indices of
17 harm, in 1997, according to the National Safety Council,
18 there were 14 deaths among high school and middle school
19 football players and more 300,000 -- 360,000 football-
20 related injuries.

21 And it is not just the chance that kids
22 participating in activity may have mishaps. There are
23 darker influences, as well. The National Association of
24 Sports Officials says that sports violence during and after
25 games is spiraling out of control, so much to the extent

1 that they have started offering hospitalization insurance to
2 sports officials. Several times a week every week, there
3 are reports that police need to be called to sporting events
4 because people have been encouraged to go out and engage in
5 these activities.

6 So it really is a question of a broader cultural
7 issue, as Professor Jenkins has said, how do people respond
8 to various things. I generally agree, sports is a healthy
9 thing. But if we are simply talking about being presented
10 with something that may cause harm, this is a clear example
11 of that. And yet, there are no hearings on whether or not
12 we are going to continue to have Monday night football.

13 CHAIRMAN KENNARD: Okay. So we should do nothing.
14 Dr. Kunkel.

15 DR. KUNKEL: If it is not too presumptuous, I
16 would like to tell you one thing I think you shouldn't do
17 and one thing that you should. My first comment that you
18 shouldn't do is trying to follow up very briefly on some of
19 the remarks that I think question the legitimacy of concern
20 about media violence.

21 I am not concerned that the Federal Trade
22 Commission in their report did not issue a definitive
23 statement about the impact of media violence. It wasn't
24 their job. I am willing to stand by the summary of a
25 quarter century of media effects research that has been

1 summarized by the National Academy of Sciences, the U.S.
2 Surgeon General, the National Institute of Mental Health,
3 the American Medical Association, the American Psychological
4 Association, all of which very clearly conclude media
5 violence contributes to real world violence and aggression.

6 It doesn't cause -- no one can pinpoint the cause
7 of any civil act of human behavior. Did someone who
8 committed a shooting in a school do so because of media
9 violence? Did they do it because of their parents? Did
10 they do it because of their peers? There is no one single
11 cause. And so it is a straw man to ask the question does
12 media violence cause in this fashion real world violence.

13 So one thing you shouldn't do is to contribute to
14 the over-simplification of an issue and ask us some of these
15 straw man questions. What I would recommend you should do,
16 that I think the Commission can do is to encourage -- and I
17 will leave it to your discretion of the strength of the hand
18 -- but to encourage more accurate labeling of violent
19 programs.

20 I think more than one member of Congress has said
21 that the current system takes the V out of the V-chip. That
22 is to say that the age-based ratings do not allow the
23 identification of violence because they are labeling
24 programs for sex and violence and language and other issues.

25 That is why -- and there was such dissatisfaction

1 with the original system introduced by the industry. That
2 is why that the child advocates and public and parent
3 organizations lobbied and were successful in getting the
4 television industry to amend the V-chip ratings to add
5 content descriptors.

6 The best data available today suggests those
7 content descriptors are not being used. And frankly, if a
8 parent were to use them, I think it would be a terrible
9 outcome because you would think you are screening violence
10 when, in fact, you are not. Under the current system, a
11 parent cannot screen for violence. If V labeling was
12 applied accurately, they could. And then the V-chip would
13 have greater utility.

14 CHAIRMAN KENNARD: Thank you. Dr. Cantor.

15 DR. CANTOR: Yes. If there is a way to encourage
16 through incentives or whatever way you can do this in your
17 overview, better information for parents ranging from, as
18 Dale said, better ratings and information about programs and
19 also coverage of the issue -- the coverage -- the news
20 coverage of this issue by the television industry is very
21 biased by economic factors.

22 Not only in general, but if you look at the
23 coverage of any controversy, there are networks that don't
24 have an economic stake in a particular movie or program are
25 the ones that cover it. And the ones that are being

1 criticized don't. I mean, it is as simple as that. If
2 there is a way of promoting fair public service
3 announcements which say here are the risks to some children;
4 you as a parent should know about this and make your own
5 decisions whether to shield or counteract the effects, those
6 are the kind of -- that's the kind of information that we
7 need not always saying, well, you can't prove the Columbine
8 massacre was caused by this particular movie; therefore,
9 there is no impact.

10 I agree with Henry, it is a very complex situation
11 and parents need to get this information so that they can
12 make the best judgements about what the effect is going to
13 be on their own child or build in parenting that helps
14 children cope with this.

15 CHAIRMAN KENNARD: Dr. Jenkins.

16 DR. JENKINS: I share some of the skepticism
17 raised about the premise of the question and including the
18 premise the government is the best place to deal with this
19 problem. But let me say two things -- two areas which I
20 think the FCC could be constructive in in terms of this.

21 The first of these I think is in broadening the
22 conversation about this question, to include a broader range
23 of scholarship when we have government investigations of the
24 question of media violence. I think it is very important
25 that you have the qualitative as well as quantitative

1 research at the table.

2 As it happens, I -- as a former student at the
3 University of Wisconsin, I have enormous respect and
4 personal affection for Joanne Cantor who was a faculty
5 member in my program. We disagree on some things. But I
6 think if we sat down together and talked about this
7 question, we might come up with better conclusions than our
8 context where we are both given five minutes in a polarizing
9 climate that pushes us further apart. And I think it is
10 important to have conversations right now about those
11 questions.

12 The second is by using the FCC to lend moral
13 support to the importance of media, literacy and education
14 in K through 12. It is far too late for us to be talking
15 about this. But it is too important not to, to say that
16 kids need to be taught to creatively, critically and
17 ethically engage in materials of media culture. And through
18 our program at MIT, we are trying to develop some national
19 guidelines on curriculum in the area of media literacy that
20 reflects the changing media environment.

21 And we would love to see organizations like this
22 one stand up and say schools should be involved in this
23 process of preparing kids to deal with the complexity of the
24 current media environment.

25 CHAIRMAN KENNARD: Thank you, Doctor. Mr. Peters.

1 MR. PETERS: The first thing would be to enforce
2 the broadcast indecency law against television stations
3 which would not solve the whole problem. But I think it
4 would uplift the moral tone of television significantly.
5 The second thing, on the violence question, I am aware of
6 two cases, Supreme Court cases, that have addressed violent
7 entertainment exposure to children, a 1948 case, Winters
8 versus New York and Interstate Circuit versus City of Dallas
9 in 1968.

10 In both cases, the Courts said that they would --
11 made it clear I think that they weren't saying that
12 government doesn't have the power to regulate children's
13 access to violence. They knocked both laws down on the
14 basis of vagueness. And I think that obviously their
15 biggest problem -- if one believes that there is some power
16 in government to regulate violence to protect children, the
17 question becomes what types of violence.

18 One suggestion in specific would be to have a two-
19 year study by the FCC with some monitoring of its own and
20 receiving complaints and then issue quarterly reports
21 expressing opinions or identifying programs that the
22 Commission is troubled with in terms of the time they are
23 aired or perhaps broadcast versus HBO, et cetera.

24 And as my -- the previous speaker suggested, get
25 feedback on those programs with the hopes of trying to come

1 up with some intelligent guidelines that would certainly
2 guide the industry. Let them know what the public expects
3 and if necessary, hopefully, would provide the basis of
4 legal standards.

5 And I would -- as a closing point, I am sure that
6 I was mildly very pleasantly surprised when I read the
7 guidelines that the industry itself came up with as a result
8 of Senator Simon's antitrust exemption. I think there are a
9 couple of holes in their guidelines that are big enough to
10 drive a truck through.

11 But I tell you, industry did a marvelous job of
12 setting forth the difference between the types of violence
13 that it thinks can cause the harm to kids. I mean, they
14 have given the Commission and the industry itself a good
15 working point. But I think if there is going to be any
16 government regulation to hurdle of what types of violence
17 are going to be regulated, certainly the goal is not to get
18 rid of all of violence.

19 And I would add that if society comes down as hard
20 on football as Mr. Corn-Revere has, I am sure that we will
21 all be back here with hearings on the effects. But I think
22 most Americans believe that with all the problems sports
23 have, they have more positive influence on young people than
24 negative. And that is why we put up with some pretty
25 shocking things at times.

1 COMMISSIONER TRISTANI: I want to thank all of the
2 panelists for your candid, provocative, analytical thoughts
3 today. And I appreciate the different vantage points that
4 we are addressing here and that is another reason I would
5 have liked to have more time to explain these issues.

6 I would have liked to have heard from a doctor,
7 maybe a pediatrician who could talk to us first-hand about
8 the different influences in children and how they act, maybe
9 from a child psychiatrist or a psychologist. And not that
10 all your views aren't good. But I would have liked to have
11 heard from the real health experts. I think that would have
12 been a very good and necessary point or perspective to have
13 today to add to your group perspective.

14 I also would have liked to have heard from an
15 average parent. I know it would be hard to find one, let's
16 say, you chose one. But it would be good to have a parent
17 or maybe a couple of parents sitting at the table here
18 telling us what troubles them.

19 With all that, a couple of things comes to mind.
20 First of all, on the first one that says, of course, it is a
21 parent's responsibility first and foremost and not only
22 responsibility, but right to monitor and watch and care for
23 the children.

24 In the perfect world, if we could have parents
25 carefully monitoring and watching at all times, we might not

1 have to be here because they might say, well, maybe we
2 shouldn't have televisions in the house at all or maybe they
3 would be there all the time sitting with their children
4 making sure that there aren't any harmful or inappropriate
5 programming addressed to them.

6 So I agree with everyone that is sitting here that
7 the first and foremost thing you can do is get more
8 information to the parents, more information, more accurate
9 information. I hear that too much, that a lot of the
10 ratings are not accurate. So that's no good.

11 Frankly, there is another problem that no one has
12 addressed here, is that not everybody is rating. Most
13 everyone is rating, but not everybody is rating and not
14 everything is rated. So that is a whole other subject. So
15 you might think I've got this V-chip, I am going to block X
16 and a lot of stuff that you don't want your children to see
17 is going to come through.

18 So more information, more empowerment, more tools
19 for attempting to deal with this great new world. But let
20 me ask about this because I have a seven-year-old who is
21 very young for his age. I also have a 19-year-old teenage
22 daughter. And their ability to deal with the world is very
23 different.

24 And I am not a psychiatrist or a psychologist.
25 But I am told -- and I have been a mother -- that it may be

1 very hard to give a seven-year-old and under or an eight-
2 year-old and under any kind of -- or the critical views
3 skills that we all talk about to be able to discern and be
4 better viewers.

5 So I ask you that because at the end of the day
6 while most parents want to do a good job, a lot of parents
7 can't be home because they are working a job or two or are
8 the only parent to be there doing the job. And then there
9 are some parents who just don't care. So what do you do
10 about the children of those parents, but also the children
11 of the best parents who are at those ages where they just
12 don't have the skills because their minds are still forming?
13 They are impressionable.

14 And I really want to direct that in particular to
15 Professor Kunkel and Dr. Cantor, if I got that right,
16 because I know you have dealt with these issues.

17 DR. KUNKEL: Well, first let me say that I am a
18 huge support of the value of media literacy. And the point
19 that I think you are addressing here is the age-related
20 differences children's cognitive abilities develop over
21 time. And there are, indeed, limits to what one can convey
22 or accomplish with a very young child.

23 Below the age of somewhere between six and eight,
24 children do not differentiate well between fantasy and
25 reality in television content. It is a complex issue.

1 There are different ways of defining fantasy-reality. But
2 prior to the age where they can discriminate well, they
3 believe that everything on television is real. Very young
4 children think that commercials are on to give actors a
5 break and that it is all happening in real-time and so
6 forth.

7 And so given that our concern about the effects of
8 media violence is focused most seriously on young children
9 and given that there are limits to what can be accomplished
10 with media literacy with young children. I think that is
11 why I at least for one am not willing to look at that as the
12 ultimate solution or the panacea here. But I think that we
13 do need to pursue initiatives to make sure the industry or
14 to encourage the industry to present violence more
15 responsibly and to give parents as many tools as possible to
16 supervise their children.

17 DR. CANTOR: Okay. I will follow up on that. I
18 agree with what Professor Kunkel said. In terms of younger
19 children, you have to be very careful because it is very
20 hard to un-do an effect on a young child, much harder
21 because they can't use their reasoning skills. They can --
22 you can talk until you are blue in the face, as I say, about
23 it is not real. It doesn't mean that much to a young child.

24 So for a -- so that is why I think parental
25 education is so important. If parents knew that their kids

1 are going to respond that intensely to what they see on
2 television, they wouldn't leave their child home alone in
3 front of the television set. Now -- but it is hard to get
4 this information out and everybody knows that a TV is a
5 babysitter that works very well at a certain level.

6 I think to the question of -- and I agree, above
7 this age, you know, you can begin media literacy, but don't
8 depend on it. As far as older kids, I think media literacy
9 is the place to go in parental education. But talking about
10 -- you were talking about the parents of the kids that don't
11 care.

12 And a lot of people say, you know, I happen to be
13 the only person I know in the world that has the V-chip. A
14 lot of parents say the people who have the V-chip are not
15 the ones who need it. It is everybody else's kids. Well, I
16 would say that is -- you have to help the -- if you are
17 preaching to the choir, help the choir first to get a handle
18 on what they can do to help their kids.

19 And then have the choir sing louder and louder
20 because just as we had to start with a very small group of
21 parents who used seatbelts and then moved it out so that
22 people were -- people who didn't usually care about these
23 things came to learn about it, I think we have to start
24 helping the parents who already concerned do a better job by
25 giving them tools and then get that message out further as

1 the parents who use these tools and information, find
2 positive results.

3 So I think we can only start with -- I don't think
4 we can tell these parents how to raise their children who
5 don't appreciate the consequences. But we can work toward
6 educating them so that they will see it, as well.

7 COMMISSIONER TRISTANI: But what do we do about
8 the parents who for whatever reasons don't care or can't or
9 won't react to this?

10 DR. CANTOR: I don't know anything we can do
11 except continue to try and work on them and also work
12 through the schools and teachers and get teacher training
13 and that sort of thing so that kids might be getting better
14 information and skills through schools if they don't get
15 them through home. I mean, there is only -- there are only
16 so many things we can -- we can only encourage parents to --

17 COMMISSIONER TRISTANI: Raising that and
18 resurrecting a broadcaster code of conduct is not a bad idea
19 or --

20 DR. CANTOR: Oh, no. I don't think it is a bad
21 idea. I think broadcasters should be encouraged to behave
22 responsibly. I don't think they should be encouraged to
23 make only bland programming. And I -- you know, I also
24 would like to stress the point that even great programming
25 can be harmful psychologically to kids who are too young to

1 see it or who don't see it with a parent and just stumble
2 into it.

3 And I think one of the extra responsibilities, one
4 of the reasons why broadcasters get targeted more often
5 than, let's say, people who do magazines or even video games
6 that kids buy is that broadcasting comes into our homes
7 automatically. And we have to -- if you want to see the
8 political debates, we have to have a television.

9 So if we want to see the political debates, we get
10 a lot of programming automatically into our homes that we
11 would never choose if we were choosing it one thing at a
12 time. And that is why they should be -- I would hope the
13 broadcasters had an extra responsibility because of this
14 automatic entry into our homes, to provide information and
15 tools that would help parents do a better job of parenting.

16 CHAIRMAN KENNARD: Commissioner Furchtgott-Roth.

17 COMMISSIONER FURCHTGOTT-ROTH: Well, this is
18 really an educational panel. I have learned a lot, as well
19 as with the last panel. Commissioner Tristani, you
20 mentioned you wished there was a parent or two on the panel.
21 Well, I think many of us feel we are parents. We described
22 your situation.

23 When I discussed with my wife last night this
24 panel, the reaction was swift and strong and I got an earful
25 about the problems about she has and other parents may have

1 about content of all sorts, not just on television. The
2 petitions that Commissioner Tristani have collected is --

3 COMMISSIONER TRISTANI: Excuse me, Harold. Can I
4 just clarify that? I didn't collect them. They were sent
5 to me. And actually, they were sent to the FCC in my care.

6 COMMISSIONER FURCHTGOTT-ROTH: The petitions on
7 the table next to Commissioner Tristani are from some very
8 frustrated people. I come at this from a -- I would like to
9 repeat the question that Chairman Kennard raised, but I
10 would like to pose it a slightly different way, maybe
11 reflecting your perspective, to ask each panelist to
12 describe one thing not that this agency can do to protect
13 the children of America, but what can parents do independent
14 of what this agency does. And it doesn't have to be in the
15 broadcast context.

16 But Commissioner Tristani is exactly right. Every
17 day we get lots of e-mails. And I would have to say the
18 vast majority are about some content-related issue. And I
19 strongly believe that this is at some point not the role of
20 government, not the role of the First Amendment.

21 But there is a crying need out there. There is a
22 lot of anger. And I would be very interested in ideas that
23 the panel might have of what parents can do on their own.
24 Maybe it is go to work with the supermarket and say would
25 you please take those magazines out of the checkout counter,

1 which I must say are more invasive and come -- you go to the
2 store to buy wholesome things. And then you go to the
3 checkout counter and you are bombarded with images and ideas
4 that are things you try to keep your children's eyes away
5 from.

6 MS. RIDEOUT: Well, I would be happy to take a
7 crack at answering that. I mean, one tool that parents have
8 obviously at their disposal is the V-chip. And it is
9 interesting, the V-chip to me is the only piece of media
10 technology that I can think of that has absolutely no vested
11 interest behind it. There is no one with a stake in its
12 success. There is no one with an interest in marketing it
13 or informing parents about it.

14 It is, in fact, an orphan technology. And the
15 result is that, you know, about 40 percent of parents have
16 never even heard of the V-chip. And even among those who
17 have heard of it, very small minorities understand either
18 how shows are rated, what kinds of shows are rated, what the
19 ratings mean.

20 In one of the Kaiser Foundation studies, we found
21 that only 17 percent of parents with children under ten
22 could name one of the two ratings that are specifically
23 designed for children's programs. Only four percent of them
24 knew what the FV stood for, which stands for fantasy
25 violence for those who might not know. But it is the only

1 labeling for young children that has -- gives you any
2 indication of the presence of violence in the programming.
3 Only four percent of the parents with young children knew
4 what that meant. And, in fact, a lot of them thought it
5 meant family viewing.

6 So, obviously, more information in that -- parents
7 would need more information in that regard I think to even
8 have the V-chip be a realistic option for them as to
9 something that they could use. I mean, another thing is we
10 hear from parents time and again that they are very, very
11 concerned about the impact of both sex and violence on
12 television on their children. However, some of the studies
13 the Foundation has done indicate that for those parents,
14 there may be more that they can do within their own homes in
15 terms of monitoring what their children are watching.

16 In one of our studies called "Kids in Media at the
17 New Millennium", we found that television was on most of the
18 time in 42 percent of children's homes, just on most of the
19 time. For kids eight and older, two-thirds of them say
20 television is usually on during meals. Two-thirds of them
21 are allowed to have a television in their bedroom. More
22 than 60 percent of them say there are no rules in their
23 family as to how much television they can watch, what kinds
24 of television they can watch. And 95 percent of the time
25 that they were watching TV, they were doing so without a

1 parent there.

2 So I would say if parents are deeply concerned,
3 they could get the televisions out of their children's
4 bedrooms. They could turn the television off sometimes,
5 especially during meals. They could watch with their
6 children so they have a better idea. There is lots of --
7 you know, a better idea of what their kids are seeing.

8 There is lots of reasons that Commissioner
9 Tristani mentioned that parents may have a difficult time
10 with this thing. They may not be home. They may have other
11 demands on their time and so on. But those are some steps
12 that some parents could take.

13 MS. STROSSEN: I welcome the expansive nature of
14 the question, Commissioner Furchtgott-Roth. And maybe I am
15 interpreting too broadly. But if the concerns are what many
16 people feel is an adverse consequence, and some of my fellow
17 panelists have said, adverse consequences of media violence,
18 number one, increase violence against young people. We want
19 to protect our young people's physical safety. And, number
20 two, we want to decrease their sense of fearfulness which
21 many people also attribute to media violence.

22 First, in terms of safety, far more young people
23 are endangered in automobiles and die in automobiles. The
24 seatbelts were referred to, drinking and driving by young
25 people. That should be a high priority.

1 In terms of fearfulness, here I am also going to
2 get to I believe in criticizing the media. And I do believe
3 in encouraging them to do more of one thing and less of
4 another. I think they should put on more positive
5 programming. I think in terms of the news coverage of
6 violence and crime is out of all proportion to reality.
7 Obviously, any degree of violence or crime in the schools or
8 anywhere else is too much.

9 But I don't think there has been enough publicity
10 about the steadily and dramatically decreasing rates of
11 crime that we have in our society including the public
12 schools. So I think that the sensationalizing of those
13 tragic incidents that occur does a disservice to the extent
14 they make all people in our society including our young
15 people over-estimate how likely it is that they are going to
16 become a victim of violence outside the home when most of
17 them were more than the victims of violence in their own
18 homes and in the streets.

19 When we get to the role of the media themselves, I
20 think that the last point that Vicky made is an extremely
21 important one. That parents should play the active role
22 throughout their kids' interaction with every kid of medium.

23 And I see you shaking your head, Commissioner Tristani.

24 COMMISSIONER TRISTANI: I am not shaking -- I
25 understand.

1 MS. STROSSEN: I mean, because there are some
2 parents who don't do that, obviously. And that is a larger
3 problem that goes far beyond media. It goes to nutrition
4 and health and everything.

5 COMMISSIONER TRISTANI: My point was not only are
6 there some parents that won't do that. Most parents are too
7 busy to do that.

8 MS. STROSSEN: Exactly.

9 COMMISSIONER TRISTANI: That is a reality of
10 modern life which we can't predict.

11 MS. STROSSEN: Yes. And so maybe the solution is
12 even a much broader one than is within the mandate of this
13 Commission. It may have to do with providing child support.
14 And I don't even want to get into that. But that may be
15 the underlying root of the problem here.

16 I think it is very important as we talk about
17 newer media that tend to spur people's fears and concerns,
18 to put it in historical context and to recognize that, you
19 know, with every new medium, parents have been very
20 concerned.

21 And I think that responses that work for comic
22 books and that work for books should also work for
23 television which is not censorship, not prohibition, not
24 restriction, but affirmative encouragement, steering kids
25 toward materials that are particularly useful for them.

1 That is what the American Library Association has done with
2 every medium. It is now doing it with the internet. It did
3 it in the past with books.

4 The code that the ALA subscribes to is that
5 everything should be open to kids on every medium, including
6 video games and some that are the least popular in public
7 perception. But we should affirmatively encourage kids to
8 seek out those sites and those shows that professional
9 educators and experts including those with the public health
10 background say are really positive for kids.

11 And that is what I was trying to get to when I
12 talked about the limits of the V-chip. I think if this
13 Commission could encourage the use of the expanding spectrum
14 space to come up with something that I would call the choice
15 chip that gave parents the full range of information on the
16 screen that they can get when they go to a library and go to
17 the children's section of the library. Now, these are
18 materials that are particularly recommended for kids. And
19 here are the detailed reasons why and the reviews. That
20 would be positive.

21 MR. CORN-REVERE: I also appreciate the spirit of
22 the question, Commissioner Furchtgott-Roth. As the father
23 of four children ranging in age from 12, or almost 13, to
24 five, this is a very significant issue in our household. So
25 it is not a question of whether or not something can be done

1 versus nothing that can be done. It is really a question of
2 who should be taking action.

3 And as parents, I think our obligation is first to
4 speak to our children and to be involved in the choices that
5 they make, to be aware of what they may watch, what they may
6 come across and to make choices that are individualized to
7 each child.

8 Commissioner Tristani, I noticed you mentioned
9 that you thought your seven-year-old was young for his age.

10 And I understand that concern as I think of my own kids and
11 have to try and decide for each of them what may be
12 appropriate or what may not be. It is one of the most
13 difficult things that I do in life, is trying to make sure
14 that those choices are appropriate.

15 So I think it is important for parents to be
16 involved with that and to set limits. And for that reason,
17 I am big believer in media literacy. I think it is a
18 woefully neglected area. So that people really don't have a
19 real awareness of what they may be witnessing. And that is
20 one of the things that we try and do at home.

21 What do you do about the households where you
22 don't have as caring an environment or where parents are too
23 busy? It does create some difficult issues. Whether or not
24 that is the occasion for government regulation is a more
25 complicated question and something that I think we have to

1 approach with an awareness that two-thirds of American
2 households don't have children in them according to Census
3 Bureau statistics. And so it makes it difficult to create a
4 rule that fits the needs of everybody.

5 DR. KUNKEL: It is a cliché to say take
6 responsibility. But I will say that because you asked for
7 the best advice. The thing that I might add that is unique
8 is that most of the attention that is devoted to a parent's
9 responsibility in this realm is focused in the communication
10 process between in this case television programming and the
11 viewer. It is focused on the receiving end of that
12 communication process. How can I limit what my child sees?
13 How can I co-view with my child to perhaps help shape and
14 interpret the meaning that they will make of the content
15 they are watching?

16 Parents know that or most parents know that. And
17 there is a lot of effort to share that information on
18 helping those -- that end of the equation. But what I would
19 recommend to parents is that they also take more proactive
20 responsibility at the source end of the communication
21 process. And that is to convene information back to the
22 industry about how they feel about programming.

23 There, of course, are some examples where that has
24 worked successfully. Professor Cantor talked about the Nike
25 ad that aired and many people complained about that. It was

1 taken off immediately. We don't see many examples of that.

2 And I am very clear that most parents feel
3 powerless, that they feel that they are just the lone voice
4 and that they cannot accomplish a meaningful input on the
5 process of what content goes out over the airwaves. Thank
6 goodness for citizen activist groups like CME and others
7 that provide some channeled role to channel parents' voices.

8 But I would encourage parents to attend to both sides of
9 that equation, source and receiver.

10 DR. CANTOR: I agree with Professor Kunkel. And,
11 in fact, I do a lot of speaking at parent groups and other
12 groups that want to know what they can do. And what I say
13 is, well, television and other media are making too much
14 money on programming that is potentially harmful to some
15 kids.

16 But parents even if they cut back a little bit,
17 there is going to be enough of it that the parents are never
18 going ever be able to say, okay, well, now I don't have to
19 worry about it. And even if they have the V-chip, they
20 have to worry about it.

21 So what I say to parents is know what your kids
22 are viewing. You can't take anything for granted. Watch
23 with them and talk to them about it. Look at the other
24 perspective. I've been doing research on getting kids to
25 look at the same media violence from a different perspective

1 and it has an opposite effect.

2 Also, get them on your side in the sense that if
3 you are authoritarian and say I am the boss here, this is
4 what we watch, this is what we don't watch without any
5 reasoning behind it, without going through and saying what
6 are some of the negative effects on other kids that you
7 would like to modify, you are going to get them running to
8 their neighbor's house. And that is not going to be a good
9 solution, running to the neighbor's house to watch it there.

10 If you can get them to internalize some of the
11 values that you have that extend to what they choose to
12 watch on television, that is the best you can do because
13 they may be out of your control pretty soon. And this is a
14 part of growing up. And I agree about speaking up, speak up
15 locally as well as nationally.

16 I got a program moved in Maury Povich's show which
17 was showing live on television the results of paternity
18 tests so that little kids learned on his show he is the
19 father, not he is your father. That was on right before
20 "Pokemon" in my locality. So that kids who tuned in two
21 minutes early for "Pokemon" saw "Maury."

22 I called up and said this was not -- this just
23 couldn't be because "Pokemon" was so popular with the five
24 to ten-year-olds. And they said, well, at the end of the
25 month, we are going to look at what the labels are like and

1 then maybe visit this. And I said I don't think I can wait
2 until the end of the month. I am going to write a letter to
3 the editor of the local paper and I will send you a copy so
4 you will be ready to -- when it comes out, you can respond
5 to it. I said this very politely.

6 Well, they called me back and moved that show
7 within ten days. And I think if we use -- and they have
8 also told me that most -- that if they don't hear from
9 parents, they think everything is okay. And I agree, a lot
10 of parents don't call up because they think there is nothing
11 to be done about it.

12 But particularly if a broadcaster pushes the
13 envelope a little further than we thought they should and
14 nobody calls, then they say, okay, we can do that again. So
15 it is really important to speak out directly and also make a
16 public statement in your local paper. And you might get
17 more action.

18 DR. JENKINS: As a father of a 19-year-old, I do
19 take very seriously the parents' responsibility in this
20 area. And let me describe a little bit of what we did in
21 our household to deal with this question, knowing what I
22 know about the culture around media.

23 Starting at about the age of three or four, we sat
24 down and were telling a bedtime story to my son. We had my
25 son tell us bedtime stories which we typed into the

1 computer, we made into books that he illustrated them. And
2 we sent them to parents and grandparents as Christmas gifts
3 and as gifts on other major holidays. That made it special.

4 We used a space where we talked together about the things
5 that mattered to my son. And he was encouraged to
6 creatively rework the contents of the environment around
7 him.

8 Now, in that space, a lot of stuff about
9 television came up including stuff that was on television
10 when I wasn't watching. It was an early warning of things
11 that my son might have seen that was traumatic or disturbing
12 or that challenged the values that I had as a father. It
13 gave me a space every evening where we could talk together
14 about the values of the media and where I could encourage
15 him to think of himself as an active, creative and ethical
16 user of media and not simply someone passively absorbing the
17 messages the media sent over the airwaves.

18 I talk to many parents who will go to Little
19 League games even though they hate baseball or listen to
20 off-key performances of Suza even though, obviously, that is
21 not necessarily that pleasurable because it is important to
22 the kid. Well, I think we as parents have an obligation to
23 be attentive to the popular culture our kids consume, not
24 because we like it or not, but because it is important to
25 the kid and our relationship to it.

1 And out of that relationship I built with my son,
2 he is here with me today. He is a student at George
3 Washington studying in media and creative writing. We still
4 talk regularly about the content of media and popular
5 culture and the values that it portrays. And I think we
6 have a relationship.

7 Secondly, I think as parents, we can use the
8 resources of digital media to trade notes back and forth
9 with each other. I don't think ratings provide enough
10 information for me because their values are very different
11 in the assumptions they are making than mine are. I think a
12 medium that allows us to really talk both negatively about
13 popular culture we don't want our kids taught and even more
14 importantly, positively about forms of culture we want other
15 parents to be aware of is something we should foster.

16 And I would love to see a merge out of these
17 debates, a kind of organization, a public organization,
18 neither commercial nor governmental, that does for the
19 cultural sphere what the League of Women Voters does for
20 democracy; that is, provide a space for people to talk about
21 issues, to compare information and to allow us to make
22 informed choices about the culture that our children
23 achieve. And I think in the digital age, we have got to
24 find a way that we can do that.

25 CHAIRMAN KENNARD: Very interesting. Thank you.

1 And Mr. Peters.

2 MR. PETERS: Since I'm not a parent, I won't try
3 to give advice. But if my mother were alive, she would tell
4 you learn to pray and get all your -- and ask all your
5 friends to pray because oftentimes that is the only thing
6 you will be able to do.

7 But I would like to make a couple of comments on
8 what the broadcasters can do very quickly. And one of them
9 is to time channeling. I mean, we don't think that time
10 channeling is the whole answer. I mean, you can't be
11 putting on the Playboy Channel after 10:00 we don't think.
12 We don't care what, you know, some people thing. But we
13 don't think. But it is a big part of the answer.

14 I just -- my -- I don't watch much commercial
15 prime time TV. But my wife kind of hooked me into watching
16 re-runs. And "Seinfeld" happened to be -- they run at 11:00
17 p.m. in New York City. And I can understand why people like
18 the program. It is tremendously funny. And to me, the only
19 consistently objectionable thing about it is that every
20 second or third week, somebody is in bed with somebody new.

21 And, of course, it is a morals-free environment.

22 Well, I'm not trying to ban "Seinfeld" from
23 television or even broadcast. I would assert it is not a
24 suitable program for prime time TV when virtually every kid
25 is still up. It is a late evening program.

1 And if the industry would just learn that there
2 are times and places for things and -- one other thing --
3 and I am going to stop. But that as the world of channels
4 grows, there will become -- there becomes less and less
5 excuse to put certain types of programming in a medium you
6 know you are going to reach virtually every kid that watches
7 television.

8 I mean, I am not the expert on this high
9 definition television. But I understand it can break off
10 into new channels. Well, if that is true, then some of
11 these channels ought to be subscription. Let adults choose
12 to bring them into their home. It is a compromise. But
13 that is part of the answer to this problem. It is not
14 either-or. It is not do nothing, leave them all in the
15 parents' care. That is not the solution.

16 And the industry itself could solve this problem
17 if it were willing to do it and maybe take a bit of a bite
18 in the pocketbook for the short term while the American
19 public learned that during certain hours of the TV evening
20 or in certain mediums, you weren't going to have every
21 adult-oriented comedy showing. But they would still be on
22 television. So I will stop with that.

23 CHAIRMAN KENNARD: Thank you. Commissioner Ness.

24 COMMISSIONER NESS: Thank you. First, I want to
25 thank everyone who has testified on this panel. I

1 appreciate your comments. Second, particularly, I want to
2 thank those of you who have been engaged in providing
3 studies and to really examine these issues. Kaiser
4 Foundation in particular has really provided us with some
5 terrific information to chew on. Dale, I know you have been
6 doing this for a kazillion years. Joanne, the same.

7 Second, I endorse and highlight what several of
8 you have said with respect to critical viewing skills, media
9 literacy. Extraordinarily important. I know NCTO and
10 others have put out materials for schools and for families
11 that have been particularly good at helping to educate
12 children to provide them with the tools necessary to view
13 programming, particularly when parents are not sitting there
14 at the same time.

15 Third, we talked extensively about what is the
16 role of government in this exercise. And one of the biggest
17 roles of government I believe is to provide a public forum
18 as we are doing today of the discussion of these extremely
19 important issues.

20 And I would like to suggest, once again, that it
21 is -- we are not talking about government subsuming
22 broadcasters. What we are talking about is broadcasters,
23 not only do they have First Amendment rights. Of course,
24 they have First Amendment rights. I am not questioning the
25 ability to provide this programming.

1 But let's not use "Shindler's List" as a shield
2 for justifying anything and everything that is on the air
3 that is gratuitous violence, that is gratuitous sex. It
4 should be broadcasters using their rights as -- in a way
5 that is responsible with serving the public. Once again, if
6 broadcasters could simply look at what they are showing --
7 are they proud of what they are showing? Do they feel that
8 this is making a public contribution to society?

9 We spend very little time on this earth. And it
10 would be nice to be able to use that time wisely to benefit
11 our communities. And that includes entertainment.
12 Entertainment is extraordinarily important for society.

13 But once again, if broadcasters could simply ask
14 for each program that is put on the air, is this something
15 that I as a broadcaster am proud of or is it something that,
16 frankly, I just assume my family not watch. Given that, I
17 think that would go a long way towards helping all of us to
18 address a lot of the issues that are facing society today.

19 And not to fingerpoint either because we can -- we
20 do spend an awful lot of time discerning if this is a direct
21 causal effect or it doesn't have a direct causal effect or
22 the like. But once again, is there something positive that
23 can be out there? And Ms. Strossen also pointed out that it
24 is great when you do have some positive things that are on
25 the air. And if there are ways of encouraging that using

1 the bully pulpit, that goes a long way.

2 And, Dale, your comment with respect -- I believe
3 it was your comment with respect to parents conveying
4 information back to the broadcasters. It is critical that
5 if parents believe that what they are seeing is
6 inappropriate, is a deterioration of the values of society,
7 whatever it might be, if that information is communicated
8 back to the broadcaster, back to the advertiser, that that
9 will help to engender this public discourse that is so vital
10 to achieving what we would like to see. And that is our
11 holding the quality of programming that is available to us
12 over our free, over-the-air system.

13 And in that context, I would also point out, we
14 have talked a lot about what children see with respect to
15 sex, with respect to violence. There has also been a
16 tremendous increase in just degrading of humanity on
17 television. I happen to be -- I think we all have been
18 receiving in all of our e-mails about a program that was
19 aired recently on -- one program on Howard Stern that was
20 particularly degrading of women.

21 And I just -- without going into the details of
22 that program, once again, we need to think about what are
23 the messages that we are communicating in society and is
24 there a way of just improving that public discourse. So I
25 want to thank everyone.

1 I do want to ask one quick question. And we have
2 just about run out of time. And I want to give my colleague
3 an opportunity, also, to ask some questions. Is there any -
4 - do you think that there would be any value to a larger
5 code of conduct on the part of broadcasters or is that just
6 guiding mere words on a sheet of paper with absolutely no
7 room for any meaning?

8 MS. RIDEOUT: Well, one thing that I would say in
9 that regard -- and this goes back to the question about what
10 parents can do -- is one thing parents can do is remember
11 that these are their airwaves. And they can inform
12 themselves about what they think broadcasters' obligations
13 should be in exchange for their free use of these airwaves.
14 And they can support elected officials who share that
15 perspective and contact the Federal Communications
16 Commission with their perspective on that.

17 And just another related point on the issue of
18 parents is that in forums like this, it seems to me we
19 always end up -- there always is a tendency to look to
20 somebody who isn't in the room to talk about what that
21 entity can do. In this instance, parents. In other
22 instances, gun manufacturers, you know, video games, et
23 cetera.

24 And I just think one rule of thumb for all of us
25 when we are engaging this issue is to focus on what those of

1 us in the room can do in a positive way. And in this
2 instance, you raise one of those options which is the
3 voluntary code of conduct. And that is something we just
4 don't have a policy position on. But I would encourage
5 parents to recall these are their airwaves, to inform
6 themselves about that issue and have that reflected in their
7 choices of elected officials.

8 MS. STROSSEN: And if it is truly voluntary, it
9 might just be empty rhetoric. If it is labeled as voluntary
10 but has behind it an implicit threat, you don't do it
11 yourselves, then the government will do it to you,
12 obviously, that raises First Amendment problems.

13 But I think the most important point by far is the
14 one that was just made by Ms. Rideout and was also made by a
15 couple of the other speakers earlier on, that parents under-
16 estimate -- parents and non-parents for that matter,
17 citizens, under-estimate the economic power that they have.

18 The mass media are nothing if not responsive to
19 economic pressures that can be brought by citizens who
20 mobilize to voice their complaints either directly or by
21 threatening their sponsors to withdraw their sponsorship.
22 That's a democratic way to influence our media that is
23 completely consistent with freedom of speech. Indeed, it is
24 an exercise of our First Amendment rights.

25 COMMISSIONER NESS: Anyone else?

1 DR. KUNKEL: Yes, but my point is that there are
2 codes and then there are codes. The NAB code that was
3 abandoned in 1982 was very proactively monitored and
4 enforced by efforts of the industry. In contrast, there is
5 a different self-regulatory code that is maintained by the
6 Council of Better Business Bureaus and enforced by the
7 Children's Advertising Review Unit. This establishes
8 standards for advertising directed to children.

9 For all of the television ads directed to children
10 around the country, I believe they have a staff of two or
11 three people that engage in no proactive monitoring or
12 enforcement. They do respond to all complaints they
13 receive. However, because virtually no one in the country
14 knows there is a self-regulatory code, they receive no
15 complaints.

16 So my point is that there are codes and there are
17 codes. A code that was widely recognized and adhered to I
18 think would be a value.

19 DR. CANTOR: I think a code that was publicized,
20 whether it was regulated or not, would have a positive
21 effect because it would cause discussion. It would make
22 perhaps hypocrisy more apparent. It would just -- even
23 empty rhetoric is something that people can focus on or when
24 they have a complaint about something, they can compare it
25 to the code.

1 And so the reason I am really angry about this is
2 it is against your own code. So I don't necessarily think
3 it will -- people will create a code and then follow it
4 right away. But anything that allows the industry to
5 recognize, even to say -- make lip service to its
6 responsibility beyond profits I think would be great for the
7 public interest in this argument.

8 DR. JENKINS: I think the industry has enormous
9 responsibilities in this area. I'm not sure whether a code
10 is the best way to form those responsibilities. But I
11 think, first of all, we need to figure out what the appeal
12 of violent entertainment is. There has been a lot of
13 discussion of effects, but not a lot of explanation of why
14 teens are drawn to this kind of material. As I look through
15 research and understand the appeal, we may discover it has
16 less to do with blood thirstiness and more to do with the
17 fact that it expresses a world view or a sense of anxiety or
18 a sense of angst about being a teen that could be expressed
19 creatively through other channels.

20 I think also we need to think about creativity.
21 And we have been -- our program has been intervening in the
22 area of video game violence by doing workshops with game
23 designers to teach them about story telling, to teach them
24 about character and narrative, to talk about other ways of
25 achieving emotional impact that don't depend on gratuitous

1 violence.

2 And I think that is a constructive intervention
3 between the academic community and the industry to foster
4 creativity rather than simply slavish adherence to any set
5 of rules which is necessarily not going to be exact for
6 every circumstance.

7 MR. PETERS: And that would be that the code is a
8 result of interaction between the industry and the public.
9 It would be much more likely to be a sound code than if the
10 industry just goes back and concocts something that more
11 often than not would be designed to protect its own
12 interest. But if the industry were willing to sit down with
13 a cross-section of people and try to hammer out some
14 guidelines for programming in various channels, my guess is
15 that there would be some workable compromises.

16 Would it make television perfect? No. Would
17 everybody be happy? No. But it would be a whole lot better
18 than it is today. But that's what I think it would take.
19 They would have to listen and everybody would have to do
20 some giving and taking on it.

21 CHAIRMAN KENNARD: Commissioner Powell, did you
22 have anything?

23 COMMISSIONER POWELL: Yes, I am going to try to be
24 brief because I know we are out of time. And I will not ask
25 a question and ask each of you to respond to it in the

1 interest of time and try to just do it as a summary. If you
2 want to respond, you can, or don't.

3 First of all, I think I want to nominate Mr.
4 Jenkins for parent of year. That is one of the more
5 creative activities I have ever heard of. And I am going to
6 attempt to try it if I can make those boys sit long enough
7 to do so.

8 Which also raises the question -- I will just make
9 a brief comment about parenting. One of the challenges of
10 setting rules about TV and saying turn it off is they may
11 want you to entertain them. And that is a challenge. And
12 then I think that I see in a lot of households that people
13 don't do that because it means then they look at you and
14 expect you to do something to provide activity and
15 entertainment for them which some parents have trouble
16 doing.

17 Nonetheless, the point I really wanted to
18 emphasize that he mentioned about parenting is -- which I
19 find struggling with an 11-year-old who responds heavily to
20 pop culture, blocking them off is to lose them. I have
21 learned this very quickly, that I have to sit down and watch
22 and understand what he is responding to and understand the
23 meanings he sees in them or he will shut me out.

24 This stuff is too prevalent in society for me to
25 pretend that I have the ability to keep him cloistered from

1 it. The number of times we say you can't watch a movie, he
2 says, oh, I saw that movie. And I say where on earth did
3 you -- down at Ricky's house. It is amazing the degree to
4 which I can't control his environment. And I don't think
5 that is anything we or anyone else is going to be able to
6 change. So learning to find these meanings that we relate
7 to is important.

8 I would just summarize by, one, really
9 complimenting the panel for staying in the area of
10 understanding that these are complexities, ambiguities and
11 subtleties that are not susceptible to easy and quick
12 solutions or even single solutions, whether they be from a
13 Constitutional matter or from a social research matter. And
14 I think that is really important.

15 I think part of the problem I find is when you
16 start talking about how to define it or put meaning to it,
17 you immediately are intertwining different sets of values,
18 different judgements about morals and biases that we as a
19 diverse nation do not uniformly share.

20 I am shocked the degree to which I have friends
21 who I have the highest respect for who think programs that I
22 wouldn't want my children anywhere near are absolutely
23 appropriate and don't want to hear anybody talking to them
24 about why they shouldn't watch WWF Wrestling. Indeed, sit
25 down and watch it with them. I can't explain that. But I

1 understand that in my democracy, I am supposed to preserve
2 that -- their right to do so.

3 The other thing I would say about the effects
4 literature which I find intriguing, I clerked for Judge
5 Edwards who wrote that article. So I want to say one thing
6 about it. He embarked on it believing that he would find an
7 answer to do it. I will point out to you, I was a clerk
8 when he formulated his idea, he believed --

9 CHAIRMAN KENNARD: Which means you wrote the
10 article.

11 MR. PETERS: No, I didn't. I got out of there
12 just in time.

13 (Laughter.)

14 But it was interesting to me because it was a
15 journey in search of finding that solution and ultimately he
16 didn't. And one of the reasons that he didn't was the point
17 that when you get to the effort of trying to define and
18 infuse these things with some values, you really run into a
19 problem.

20 I don't know why -- we talk about glamorization
21 and sanitization. Well, you know, when I was a kid, John
22 Wayne and the Green Berets and the plethora of westerns and
23 Road Runner did all the same thing. They glamorized and
24 they sanitized. We have aspects of violence and aggressive
25 that we value as a society. That makes us even harder.

1 What is a just war? How do I explain the presence
2 of the most powerful military on earth and this willingness
3 to use it? How do I explain when you should hit someone
4 rather than let them pick on your little sister? How should
5 I explain what it means to defend my home and my property
6 against intrusion? These things are -- you know, how do you
7 explain the violence and aggressiveness in sports that we
8 revere? All of these things I think make these issues very
9 complex, subtle and dangerous.

10 And I think the caution that I want to emphasize
11 that I think all of you all did in your own way is that
12 there is -- the cause and effect thing is the wrong
13 question. And I think Dr. Kunkel said it right. It is a
14 contributing factor. But the reason we have to be cognizant
15 of that is it is also meaning there is no grand solution
16 just for this problem that will have the kind of impact that
17 we are talking about.

18 It is not about letting parents off the hook. But
19 it is understanding that parents will make different value
20 judgements than we might. To me, it is not about it is all
21 the parents or it is all the government. But when you get
22 into an area where someone is going to have to make a value
23 judgement about their kids, to me that is the parent.
24 Whether they are willing or not to exercise that, at some
25 point, I think that is sort of the price of democracy. But

1 I won't ask any questions because I am hungry.

2 CHAIRMAN KENNARD: Okay. we will take another ten
3 minutes because Commissioner Tristani wanted to ask another
4 question.

5 COMMISSIONER TRISTANI: No. And I don't need ten
6 minutes.

7 CHAIRMAN KENNARD: Okay.

8 COMMISSIONER TRISTANI: And if anyone else wants
9 to chime in. First of all, I want to agree with -- and I
10 stated this myself before -- something which Professor
11 Kunkel first brought up and was echoed and Ms. Strossen
12 brought up, that there is no more powerful tool for parents
13 than contacting the broadcasters and their sponsors and
14 saying this is not something we like.

15 It works. It is very effective. I think parents
16 and families are not aware of how effective that is. And
17 that is a message I give constantly and I give to a lot of
18 the groups that have come personally to complain to me about
19 programming they think is inappropriate.

20 And at this moment, I would like to recognize
21 either Ms. Santine who is here in the back of the room from
22 Puerto Rico who belongs not from the group that presented
23 these petitions, but from another group in Puerto Rico who
24 is concerned about these issues. I have again and again
25 counseled them that aside from contacting their government

1 which is their right, that they should contact the
2 broadcasters because economic tools are the most powerful
3 tools. So I wanted to highlight that.

4 A lot of our discussion today -- and I think it
5 has been a very good discussion, although I would like to
6 have a prolonged one and some other players -- has focused -
7 - most of it has focused on violence. And I think there is
8 much more research on the effects of violence on our
9 children. But a concern that I have read about and I am
10 concerned about and a lot of parents are concerned about is
11 the effect of sexual material.

12 And one issue that I think was picked up in maybe
13 your -- one of the Kaiser studies, it has been picked up by
14 others, is concern about the effect of sexual programming in
15 contributing to the ever-increasing sexual assertion of our
16 young teenage girls at younger ages. They are not only
17 becoming aware about sex, but engaging in sex at younger and
18 younger ages. And I know there is not a lot of evidence on
19 that.

20 But are you -- are any of you -- and I am sure you
21 must be concerned about this -- that it might be a
22 contributing factor? And what can we do about that? And I
23 would like you to address that first, Ms. Rideout.

24 MS. RIDEOUT: Sure. Well, we do know from the
25 body of research on television's effects overall that

1 television and culture more broadly helps shapes young
2 people's attitudes, knowledge and behavior across a wide
3 variety of issues. When it comes to sex, we know that media
4 affects knowledge. And we know that it is a source of ideas
5 for young people as to what is the norm, what are other
6 people doing, what are expectations, what is the norm for
7 gender relations and gender roles and so on.

8 Quantitative studies on direct causality that you
9 are speaking of are even rarer for effects on sexual
10 behavior than for violence. In fact, we have quite a few in
11 violence, but not many on sex. The National Institutes of
12 Health have just funded a number of research projects in
13 that realm that should help close that gap.

14 We certainly know that there can be a positive
15 impact from programming such as public service advertising
16 and also from -- in the content of specific shows. And one
17 final thing I just wanted to say is as you consider the
18 array of options before you, there is a voluntary code of
19 conduct in the television industry today.

20 Broadcasters are making voluntary decisions as to
21 what they think is appropriate or is not appropriate to put
22 on the air every single time they decide to show something.

23 And the results, the content that we have on television is
24 the result of those voluntary decisions.

25 MS. STROSSEN: I would just like to say that I was

1 fascinated recently to read their very comprehensive survey
2 about parents' attitudes about sexual education and sex
3 information. And contrary to some stereotypes and
4 preconceptions, it showed that the vast majority of parents
5 are hungry for their kids to get more information about sex
6 including over the media.

7 I think the assumption is that they are going to
8 be sexual beings anyway. I don't want to give them --

9 COMMISSIONER TRISTANI: Ms. Strossen --

10 MS. STROSSEN: Yes, yes.

11 COMMISSIONER TRISTANI: -- and this is meant for
12 everyone because I did want to explain in my question. But
13 my concern is not about having good information which gives
14 you the good health information, but is maybe casual
15 treatment without talking about consequences like pregnancy
16 for one. And I know our pregnancy rate is down somewhat,
17 but not very much. And at least -- and, again, in Latino
18 populations, it is very high and continues to be very high
19 in many states.

20 So it is that casual treatment. Again, I wish we
21 had a doctor here because they could talk about it is not a
22 good health risk for young girls to be having babies or --
23 and that is just one aspect of it. There are the diseases.

24 And I don't want to get into that.

25 So my concern is not that it shouldn't be on, but

1 the casual treatment. And, again, I know there is not a lot
2 of empirical evidence. But I wanted to know if you have any
3 concerns about that.

4 MS. STROSSEN: I would just have to say -- to echo
5 what Bob Corn-Revere said earlier about violence about this
6 being such a matter of values and so subjective. That has
7 got to be even more true when it comes to sex.

8 COMMISSIONER TRISTANI: Dr. Cantor.

9 CHAIRMAN KENNARD: One more comment and we will
10 have to close up.

11 DR. CANTOR: In response to what both of you have
12 just said, you gave a lot of examples of different ways that
13 violence might be depicted. And it is -- you are saying it
14 is too simplified just to say this is violence and it is
15 bad. And we are talking here about how sex might be
16 depicted or talked about that might either be casual or
17 really unhelpful.

18 And what I want to say before this is over is what
19 the D stands for in the rating system. A lot of people
20 don't know. The D stands for sexual dialogue and innuendo.

21 And this would be -- it would be very valuable if people
22 knew what that meant and also could depend on the V.

23 And as a parent, what that says to me is there is
24 this type of content there. I ought to look at it to see if
25 it is going to be the kind of uplifting, helpful discussion

1 of these two issues or something that I want to at least
2 give the opposite side of the question to my child after he
3 has seen it.

4 So pointing these things out is a good way not to
5 say this is automatically bad for your child, but there is a
6 kind of content here that could be tricky and you ought to
7 look at it more carefully and then decide whether this is
8 exactly the message your child wants to want or if you want
9 to make a counter-message.

10 CHAIRMAN KENNARD: If you could just indulge me
11 with a closing comment based on what you just said. There
12 has been a lot of discussion today about the role of the
13 industry voluntarily educating parents and empowering
14 parents and what not. And, of course, your message talked a
15 lot about the responsibility, the personal corporate
16 responsibility of broadcast executives who make these
17 decisions about what goes out on the air.

18 And the three years that I have been in this job,
19 I have had a number of conversations with those people, the
20 executives who create this programming and put it on the
21 air. And I have asked many of them point blank why do you
22 do this, why do you put this programming on the air when you
23 know it is not good for a lot of kids and while you probably
24 wouldn't want your own kids to watch it.

25 And many of them have been quite candid with me in

1 talking about the increasing competitive pressures that the
2 broadcast industry is under these days. It is not a simple
3 world anymore where you have three over-the-air networks and
4 you are basically guaranteed a certain share of the prime
5 time audience. It is much more competitive.

6 And I don't think that we can rely on the
7 corporate responsibility of broadcasters to always do the
8 right thing. First of all, there is a lot more of them out
9 there now making these decisions and putting programming on
10 the air. And it is just not -- it is not just broadcasting
11 either. It is they are feeling the pressure from cable and
12 DVS and now the Internet.

13 So I want to come back to the V-chip. Vicky, you
14 said that it is an orphan technology. Why is that? I
15 remember when V-chip legislation was being advocated on
16 Capitol Hill in the 1996 Act. And, frankly, there was a lot
17 of resistance from the broadcast industry. I notice a lot
18 of representatives from broadcast industry are here today.

19 And I wanted to send this message to you all
20 because in the wake of the recent hearings in the Senate
21 commerce committee after the FTC report on violence, a lot
22 of broadcast executives said the first time I have ever
23 heard them say this, well, we have the V-chip. We can use
24 the V-chip. We here all endorse the V-chip. Joanne Cantor
25 talked about PSAs and seatbelts. If you can embrace

1 seatbelts as a PSA campaign, why not the V-chip?

2 Commissioner Tristani has done valiant work to try
3 to get the broadcast industry more focused on an education
4 campaign for the V-chip. And I think the industry could do
5 a lot more in this regard. Why not incorporate the V-chip
6 in some of your entertainment programming as you had the
7 example used with "ER" and sex education? Why not
8 incorporate in some of your entertainment programming and
9 get the word out.

10 Commissioner Powell talked about EPGs as far as
11 the next evolution of the way people use television. Well,
12 how are we going to incorporate V-chip-like technology into
13 the EPGs and will this industry, the broadcast industry,
14 really embrace that technology to empower parents to screen
15 out some of the stuff that we don't want our kids to hear.
16 Well, thank you for indulging me that final comment before
17 lunch. Let's reconvene again at 2:15.

18 (Whereupon at 1:15 p.m., the hearing was recessed
19 to reconvene at 2:20 p.m., this same day.)

20 CHAIRMAN KENNARD: I believe we are ready to get
21 started. Welcome to the third and final panel on today's
22 hearings on the public interest obligations of television
23 licensees. Before we begin our third panel, I wanted to
24 mention that I just received testimony submitted in the
25 record in this proceeding from Senator Sam Brownbeck who has

1 been very interested in the issues that we have been
2 discussing today. I wanted to note that it will be entered
3 into the record, of course, and to thank the Senator for his
4 participation in our hearing and on these issues in general.

5 We are ready to proceed with the third panel which
6 will address in a fairly general fashion the way that
7 digital technology can be used to better serve our
8 communities. And for those of those panelists who were not
9 here earlier today, just to go over the ground rules here.

10 We will ask each panelist to take five minutes to
11 make an initial opening statement. There are -- there is a
12 -- there are lights here. The green light will go on for
13 four minutes. The yellow light will tell you that there is
14 a minute left. And then when the red light goes on, your
15 time is up.

16 We will also try to reserve some time at the end
17 of the panel for discussion among the Commissioners and the
18 panelists. And also, I have been trying to get some time
19 for questions from the general public. But we have not done
20 too well on that. So we will try yet again for the third
21 panel. So thank you all for being here. And we will begin
22 with our first panelist, the esteemed Henry Geller.

23 MR. GELLER: I like the adjective. Thank you for
24 this opportunity to address this -- the Commission on this
25 problem. What I would like to focus on is what I believe to

1 be the best resolution of the broadcast regulatory matter in
2 the digital era. I am going to do that even though at the
3 end, I am recommending a legislative action by you rather
4 than an administrative action.

5 Your present regulatory scheme is a public trustee
6 one. You are all familiar with it, very familiar that
7 system short-term licensees that are committed to serving
8 the public interest of being a fiduciary trustee for their
9 community. The Supreme Court in Red Lion said that it is
10 based on many more people than are broadcast in our
11 available frequency. The government could have divided up
12 the broadcast day, week, month, whatever. And instead of
13 that, it puts one entity on. And he has to be a fiduciary
14 for all those the government is keeping off.

15 That -- the constitutionality was sustained in Red
16 Lion. And in the cases in the '90s like Turner, Run and
17 others, the Supreme Court again said that this constitutes
18 our broadcasters' prudence. Even though it had been much
19 criticized forming the exception, this is what we are
20 following.

21 Now, very quickly, I don't think there is much use
22 in the FCC discussing the validity of the public trustee
23 scheme. You can't change or declare it unconstitutional.
24 Only a Court, the Supreme Court can. And there doesn't seem
25 to be very much use in your discussing whether you are going

1 to follow the public trustee scheme. You have to follow
2 what Congress has told you to do.

3 And in the 1996 Act, it said that remains the
4 governing standard. But you are the expert agency. And you
5 can make legislative recommendation. And what I would urge
6 you to do is to tell Congress it is time to scrap the public
7 trustee scheme. And you would then treat broadcasting the
8 way you treat cable. Cable pays up to five percent of its
9 gross revenues for use of the public streets. And here, you
10 would take some modest spectrum fee, two, three, whatever
11 percent. You would take it and you would give it to public
12 broadcasting.

13 There is still a need for high quality, public
14 service programming. The -- as you heard in this morning's
15 panel, the public broadcast system is dedicated to doing
16 just that. The commercial system, some do, some don't. But
17 it is under fierce competitive pressure and it is growing.
18 And, again, you heard that this morning.

19 By proceeding in this fashion, by doing this, you
20 would take broadcasting and level the playing field. It
21 would be the same as the other new electronic media like
22 cable. And you would also remove First Amendment strains.
23 And finally, you would be giving up behavior content
24 regulation which is very difficult in this First Amendment
25 field, particularly at the margins. And in place of that,

1 you would be adopting a structure that works for what you
2 want which is this high quality public service programming.

3 And what I recommend is that your legislated
4 program would focus on a very easy step I think, a modest
5 step for Congress to begin with. And that is in your
6 children's television field that was the concern of this
7 first panel. It is a crucial field because child by child,
8 we do grow our nation.

9 And if you look at what is happening in the
10 digital era, you can have multi-channel broadcasting. You
11 could have one channel that does pre-school, school-aged,
12 adult literacy, teacher training. The public system is
13 eager to do that, has plans to do it. It just need adequate
14 funding. It does take a considerable amount of money.

15 The commercial system is never going to do that.
16 And you shouldn't expect it to do that. And so what I would
17 propose is relieve the broadcasters of their obligation in
18 303(B) to put on -- to serve the education needs of children
19 including the Kolb requirement. And in place of that, take
20 one percent of the gross revenues of the local station.
21 That would give you 250 million dollars. And I believe that
22 with that, the public interest would greatly be promoted.

23 CHAIRMAN KENNARD: That is your summation.

24 MR. GELLER: My time is up.

25 CHAIRMAN KENNARD: Okay. Thank you. We will get

1 back to that, I'm sure, Henry. Mr. LaCamera.

2 MR. LaCAMERA: Thank you, Mr. Chairman. My name
3 is Paul LaCamera and I am the General Manager of WCVB TV
4 which is the ABC affiliate in Boston, part of the national
5 Hearst Argile Television Group. Thank you for this
6 opportunity to appear on behalf of our studio and on behalf
7 of Hearst Argile Television and what is certainly a bit of a
8 stretch, on behalf of the local television broadcasters
9 represented by the National Association of Broadcasters.

10 I imagine that NAB asked me to represent its
11 constituency because WCVB is somewhat representative of the
12 tradition and imperative of localism and local television
13 service in America. WCVB is a very successful television
14 station by most traditional measures. It is also a station
15 which deeply believes in the concept of localism and whose
16 hallmark has always been ambitious local service.

17 WCVB is also a station of firsts. And I would
18 cite but two examples which I know are of great interest and
19 import to this body. On the technology front, WCVB in
20 October 1998 was the first station in New England and one of
21 the first in the nation to launch digital broadcasting. We
22 have taken this transition quite seriously and have had some
23 initial, although understandably limited successes.

24 On the content side, for the purpose of today's
25 discussion on the local service side, WCVB was the first

1 station in the country to commit to the airing of the
2 minimum of five minutes nightly of so-called candidate
3 center discourse in the 30 days leading up to an election.
4 We specifically undertook this over the 30 days of January,
5 prior to the February 1st New Hampshire presidential
6 primary.

7 WCVB's experiment was widely monitored and broadly
8 documented. Without straying into too many specifics,
9 suffice it to say that it was an exhilarating, rewarding and
10 at the same time, an enormously frustrating experience for
11 us. However, it felt like the right thing to do. And in
12 the end, it proved to be such.

13 In fact, it was so successful, WCVB is currently
14 in the midst of a similar commitment in these 30 days
15 leading up to the November 7th election. Our station's
16 parent group, Hearst Argile Television, has extended this
17 pledge to each of its 24 stations as part of its larger
18 Commitment 2000 Project which has as its goal the
19 enhancement of public participation in the electoral
20 process.

21 And as we know, the WCVB and Hearst Argile models
22 are now being replicated across the local television
23 industry including the important CBS and NBC-owned station
24 groups. And many other stations across the country are
25 devoting time in a variety of ways and formats to coverage

1 of the issues of the campaign.

2 As we learned, the five-minute concept tests more
3 than a station's commitment. It challenges its creativity,
4 as well. In New Hampshire, we face the obstacle of the lack
5 of accessibility and the lack of cooperation of two of the
6 four principle candidates.

7 This current political season in Massachusetts, we
8 tested by the absence of a single meaningful race beyond the
9 presidential contest. And even attaching the descriptive
10 contest to the presidential race in Massachusetts is a bit
11 of a stretch. Our senior Senator was up for re-election,
12 along, of course, with all of our ten Congressional
13 Representatives. Most do not have challengers and the few
14 that do are facing extreme fringe candidates at best.

15 However, we are doing our best to register
16 citizens of Massachusetts, encourage them to vote on
17 November 7th even in the absence of contested local races
18 and to inform them as best we can of the issues at hand. It
19 is interesting to add that not a single political
20 advertisement has appeared this fall on a Boston television
21 station.

22 And I would suggest this has not necessarily been
23 idea for Massachusetts voters. Voters were advertising as
24 part of the mix a key player in the rigger of the contest
25 and of the debate. Last Wednesday, in fact, the Boston

1 Globe editorial described a situation in Massachusetts in a
2 sense, that George Bush and Al Gore are running for the
3 presidency of some foreign country.

4 The perception is not far from the truth in spite
5 of the best efforts of Boston television and of the Boston
6 press to bring the candidates and the campaign to the
7 forefront of public attention.

8 The first Presidential debate did occur in our
9 city. And the Boston television stations did a superb job
10 in framing this historic event, particularly with special
11 programs that aired in prime time prior to the 9:00 p.m.
12 start of the debate. WCVB's next special undertaking is a
13 commercial-free, half hour debate at 7:30 p.m. on Monday,
14 October 30th when our Governor and our State President of
15 Massachusetts will debate in our studio a referendum
16 question on the November 7th ballot which would lower the
17 state tax rate from 5.9 to five percent.

18 While Massachusetts may not have a need for a
19 political race, it does have some of the most critical
20 referenda issues our state's voters have ever been asked to
21 consider. These are the issues in the political arena being
22 replicated throughout the Hearst Argile Group and across
23 every market and local television station in America, some
24 in more vicious ways than others.

25 Importantly, the undertakings I have described are

1 not an anomaly and certainly not unique to WCVB, to Boston
2 or to Hearst Argile. In these election outreach activities
3 are but one small albeit current example of the broader way
4 of public service provided by local television stations in
5 America. I know that the NAB has tried to document and
6 quantify these efforts and actually derived a stunning
7 figure of more than eight billion dollars annually in public
8 service.

9 With that figure so large that it almost loses its
10 meaning, I can assure you that the public work of our
11 station and of our group and that of every local television
12 station in this country has great meaning. I am always
13 struck by and proud of the public service announcements,
14 national telethons, community projects, fund-raisers of
15 every stripe, disaster relief efforts and almost
16 indescribable variety and volume of pro bono work conducted
17 by local stations.

18 I have always operated WCVB with the assumption
19 that our station is a community institution in the best
20 sense of that term and with all the attendant obligations.
21 I also firmly believe that a great majority of my
22 counterparts believe this, as well, and operate their
23 respective stations with a high sense by dealings in
24 community purpose. Thank you.

25 CHAIRMAN KENNARD: Thank you very much. Jim

1 Goodman, thank you for being here. I don't know where
2 Professor Raskin is. So we will just go ahead with your
3 statement.

4 MR. GOODMAN: Thank you, Mr. Chairman. Three
5 things. 1) Thank you for the digital spectrum and thank you
6 for this digital transition. It is great technology and it
7 will really make us better local broadcasters. Now, I am --
8 having said that, I have a couple of things on my mind.

9 One is we need some help to get this transition
10 going. And the second part is preserving the concept of
11 localism. The reason we have 1,600 television stations is
12 they are to serve the local community. How do we preserve
13 this concept of localism as we move off into the digital
14 beyond? So we need some help in getting this transition
15 done. And how do we preserve localism?

16 I am sure that you have read the Gore Commission
17 report. I read it again this weekend and decided we did a
18 whole lot better than I thought we did when we finished.
19 But the concept -- I commend that to you because the concept
20 out of the Gore Commission is that there should be 1) -- we
21 are talking about public interest standards now for digital
22 broadcasters in the future.

23 There should be 1) a voluntary code. We need to
24 get back to the voluntary code. That is a very important
25 part of it. And 2) there should be minimum public interest

1 standards for broadcasters. I mean, that is in the statute.
2 That is part of the law. And there should be minimum public
3 interest standards for broadcasters.

4 We -- there were some suggested standards in the
5 Gore Commission report. Some were in the body of the
6 report. The actual committee that I worked on, the Minimum
7 Public Standards, didn't make the main report. It is sort
8 of an appendix to it. But I wish you would really look at
9 that.

10 The idea behind that is localism, that every
11 station should be required to do local public affairs
12 programming, local public service announcements to have and
13 ascertain a process and when it gets feedback from the
14 community in terms of what it should do and, very
15 importantly -- and this is in the Gore Commission report and
16 I hope you will look at it -- there is a really good
17 quarterly report.

18 The truth is we don't really know how everybody is
19 doing with -- I mean, there is -- there are many fine
20 broadcasters. As a matter of fact, I think most
21 broadcasters are fine. I am talking about the future. The
22 truth is there is no way to know what broadcasters are doing
23 under the current reporting system. And there is a very
24 good quarterly report in the Gore Commission that I hope you
25 all will look at.

1 So report to the community, ascertainment and then
2 do local public affairs programming and local public service
3 announcements. We did add to that the window before the
4 elections, 30 days before the elections, since the stations
5 are required to do local public service announcements and
6 local public affairs programming, that some of that time be
7 turned over to candidates in the window before the election.

8 I mean, a very minimal -- I think we mentioned a
9 couple of hours a week of local public affairs programming,
10 a certain number of PSAs. The basis there really is local
11 programming. Close captioning is going to be great in
12 digital. We can do a whole lot of things. Let me just
13 mention three other things to wrap it up here.

14 CHAIRMAN KENNARD: Jim, why are you so excited
15 about digital?

16 MR. GOODMAN: We went on the air in '96. We have
17 broadcasted high definition since then. We have done multi-
18 casting. We have done data-casting. We would be
19 interested, Mr. Chairman, to know that on our Fox digital
20 station, we carried both the Fox network and the debate,
21 same station at the same time. That is not what you wanted,
22 but it is closing in on it.

23 In terms of multi-casting, we do regular
24 programming. We also do news about floods in eastern North
25 Carolina. We broadcast data, IP data to computers about

1 closings according to the floods. This -- we can do --
2 imagination is the only limitation with this digital
3 spectrum. We need to get this transition going. You know,
4 we must carry the digital tuner. There should be a
5 requirement that all stations do some HD.

6 We've got to move this transition along, but we
7 can be much better local broadcasters. And I really believe
8 that we should have minimal public interest standards that
9 relate to localism which is the reason we are here, which is
10 to serve the local community.

11 The only problem I had -- we had -- CBS -- I've
12 got a yellow light. CBS was doing four basketball games,
13 the opening round of the March Madness. One of the games
14 was a Duke game. I said that is the only game we need to
15 take. It is the only important game. We took all four. So
16 I lost out of that one. But we carried four games at one
17 time in March Madness.

18 So we can do anything. This is great for
19 broadcasting and great for localism. And we tried to laid
20 this out so this -- we are not telling people what to do,
21 what to program, what the content is we should -- but we are
22 serving it should be at the local area.

23 CHAIRMAN KENNARD: Thank you very much. And thank
24 you for your participation on the Gore Commission. We
25 really appreciate that. Mr. Taylor.

1 MR. TAYLOR: Thank you. My name is Paul Taylor.
2 I am the Executive Director of the Alliance for Better
3 Campaigns. It is a nonprofit group that has been
4 encouraging broadcasters to provide more area time for
5 viewers to seeing their candidates discuss issues in the
6 closing weeks of the campaign season.

7 Thank you to the whole Commission for holding this
8 very important hearing. And in particular, I wanted to
9 thank Commissioner Tristani and Chairman Kennard, both of
10 whom, Commissioner Tristani at an event we had in June and
11 Chairman Kennard last week up in New York, what I thought
12 were very eloquent comments on this subject.

13 You don't have to delve too deeply, Mr. Chairman,
14 into your remarks to see you are a little bit frustrated
15 with the broadcast industry in the area of meeting its
16 public interest obligations. I share that frustration. And
17 let me explain why.

18 Our group has spent the better part of the last
19 year, year and a half encouraging the broadcast industry to
20 respond to the recommendation of the so-called Gore
21 Commission on which both Paul LaCamera and Jim Goodman so
22 ably served in the area of candidate-centered discourse.

23 And I just want to just go briefly back over the
24 history here. This recommendation, five minutes a night, a
25 voluntary standard, five minutes a night, 30 nights out from

1 the night of the election, was an effort to break a long-
2 standing impasse on the difficult issue of free air time for
3 candidates. It was crafted by broadcasters and public
4 interest advocates alike. And it represented a good faith
5 compromise between those who support mandates and those who
6 oppose them.

7 And it was also kind of a challenge to the
8 industry. It said, look, here is a voluntary standard which
9 you yourself helped craft. It has got lots of flexibility
10 built into it. It has got a minimalist target, five minutes
11 a night. Let's see what you can do with it.

12 Well, we are now most of the way through the first
13 general election that has been held since the standard was
14 put on table. And the record has not been very good.
15 During the primary season with a few notable exceptions --
16 and Paul LaCamera described the best of them I believe and
17 Jim Goodman's station also had an excellent record during
18 the primaries.

19 But by and large, the industry ignored this
20 proposal. We work with researchers from the University of
21 Southern California and the University of Pennsylvania.
22 They found that the typical local station devoted just 39
23 seconds a night to candidate discourse in the month
24 preceding their relevant primary. And the national networks
25 devoted 36 seconds a night in the month preceding the Super

1 Tuesday Primary which was close to kind of a national
2 election.

3 Now we are in the 30-day window preceding November
4 7th. And we find that out of the roughly 1,300 local
5 commercial stations in the country, by our count, 93 of them
6 or about seven percent of the industry has indicated that
7 they will even try to meet that standard this fall. Most of
8 these are local stations owned by the half dozen or so
9 station groups that have committed at the corporate level,
10 CBS, NBC, Script, Hearst Argile and Capital.

11 I commend them for taking this step. But I can't
12 help but wonder where is the other 93 percent. It is not
13 only that they haven't taken up this challenge. They have,
14 in fact, been cutting back on election coverage and coverage
15 particularly at issue across a variety of fronts. The
16 coverage of the Presidential race, for example, by the
17 network nightly news is down by one-third from 1988, the
18 last time we had an open seat Presidential campaign despite
19 the fact this by most accounting is the most competitive
20 Presidential race we have seen in a generation.

21 There were 22 televised debates during -- that
22 were held during the primary season this year, 22. Of
23 those, only two aired on a broadcast network, neither of
24 those two in prime time. Just two weeks ago for the first
25 time in our history, two of our four major national networks

1 chose not to broadcast live a general election Presidential
2 debate.

3 And in addition, the opening nights of the 30-
4 night window occurred last Monday and Tuesday. And we took
5 a look at the network-affiliated local stations in the five
6 largest cities in the country, New York, L. A., Chicago,
7 Philadelphia and San Francisco.

8 We found on the first two nights of the window,
9 the first two week nights of the window that these top 15
10 stations, the NBC, CBS and ABC stations in those five
11 cities, aired on average just 45 seconds a night of
12 candidate discourse. This despite the fact that of those 15
13 stations, nine of them are owned by NBC and CBS which have
14 made this commitment at the corporate level.

15 So what we are really seeing based on these early
16 returns -- I hesitate to make too much of this because it is
17 just an opening few nights, but based on the early returns
18 what we are seeing here in terms of the response to the
19 voluntary standard is not much intake by the vast majority
20 of the industry and little beyond lip service with a few
21 notable exceptions -- and most of them, in fact, are sitting
22 to my left -- from the rest.

23 I believe given this very unfortunate response to
24 their promising proposal, I think it is time to push for a
25 mandate. I agree with Chairman Kennard that such a mandate

1 -- the first place to look for such a mandate is Congress.
2 And ideally, it would be part of their broader campaign
3 finance legislation.

4 But I would go a step further because there is a
5 long and unhappy history of this issue in Congress. And the
6 bottom line is that the interest of incumbent members of
7 Congress and the interest of incumbent broadcasters are for
8 this not to happen.

9 So I think that both of them want to preserve a
10 status quo that protects incumbents, starves challengers,
11 enriches broadcasters and impoverishes our democracy. It is
12 a status quo where if you want to communicate to the voters
13 on broadcast television, you have to pay your way on.

14 Let me just close by urging the FCC regardless of
15 whatever Congress does or doesn't do in this area, to move
16 towards considering a free air-time mandate. Here at the
17 FCC, make it a part of the condition of a broadcaster
18 receiving a license. I believe it is constitutional. We
19 and 20 other groups submitted in response to your public
20 inquiry notice an argument that it is constitutional. I
21 believe it is within your authority to do so. And I would
22 urge you to move forward with all deliberate speed. Thank
23 you much.

24 CHAIRMAN KENNARD: Thank you very much, Mr.
25 Taylor. Sister Mary Parks.

1 SISTER PARKS: Good afternoon. My name is Mary
2 Parks. I am a Sister of St. Joseph, committed to the
3 Communications Ministry in Central Pennsylvania in the
4 Diocese of Allentown and Johnstown for the Catholic Church.
5 Our diocese is about 115,000 Catholics in eight counties in
6 west central Pennsylvania.

7 I am grateful for the opportunity to speak with
8 you today because I believe that under the current
9 regulatory structure, free access to the public airwaves
10 does not really exist anymore. And that concerns me a great
11 deal.

12 I would like to begin my story today by telling
13 you a little bit about my beginning in television. My first
14 job after I graduated from college in 1973 was teaching
15 Romper Room which was a children's television program in
16 those days. And anybody over 30 might remember. Every
17 morning for two years, I taught as a live on-air personality
18 on WJAC TV in Johnstown, Pennsylvania. And many area
19 youngsters had the opportunity to be part of that program on
20 TV. We graduated a class every two weeks.

21 The program was syndicated on paper so that it
22 could be localized all over the country. And during those
23 years from 1974 to 1975, my station did a tremendous amount
24 of public service programming and free public service
25 announcements. After teaching English for a few years, I

1 returned to television in 1978 at the same station in
2 Johnstown, 30 miles from where I grew up as a beep
3 announcer, as a program host for public service programs, as
4 a weather host.

5 Every week day, WJAC TV gave -- and this is every
6 week day -- 15 minutes of public service programming time to
7 worthwhile community interests right after our main news.

8 People could see area religious leaders on "Religion Today."

9 Alma Kramer hosted "Seniors Today", with a variety of
10 interesting topics for older people in our community. We
11 had a program for farmers, by farmers, called "Extension
12 Six." I learned a lot, believe me.

13 And during prime time once a week during the
14 school year, we ran a half hour program called scholastic
15 quiz which allowed area high schools to send their best and
16 their brightest to compete academically, answering questions
17 on every subject from history to science to math. But the
18 most coverage television provides for education is the
19 expanded sports reporting we get on high school football
20 during the 11:00 p.m. Friday news shows.

21 Under the stipulations of our union contract in
22 those days, a large portion of our station identifications
23 and commercials were read live. And because of that, I was
24 more aware than I would ordinarily have been about the
25 number of public service announcements we did because I was

1 reading quite a few of them during every shift.

2 And when Sears was slow at the television station
3 and paid commercials were few, we did tons of PSAs. Today,
4 news stations fill those available time slots with
5 commercial material. They type their local news
6 incessantly. Some of the promotions are general in nature.
7 Others are specific to news programs of the day.

8 And when we used to do commercial updates in our
9 news during the 1980s -- I read ten years of news, too. But
10 those updates were news reporting. We were telling people
11 the news, not just teasing what we were going to tell them
12 later. Now stations never give the whole story during those
13 updates. They just entice viewers. And clearly, the
14 industry deems this promotional barrage an imperative as
15 stations are battling for the Laurel Ives in these rating
16 wars.

17 During the 1980s when I worked exclusively in the
18 news department at WJAC, I could see the changes happening.

19 In my opinion, we were doing more promotional and less
20 reporting as the decade went on. My decade in news ended
21 when I entered my religious community in 1990. But during
22 the ten years that I was reporting news, I watched free
23 programming disappear at our station. And now I am in the
24 position to understand more fully what that means.

25 I became the Secretary for Communications to the

1 Bishop Joseph in 1998. And I am back in my old stomping
2 grounds where people remember me from my days on television.

3 I have many friends that still work on local television
4 stations. And I enjoy my relations with them.

5 And in spite of having a strong home field
6 advantage, I am unable to get any of our public service
7 announcements on the air free. I have been told that other
8 than slots in the middle of the night, free time no longer
9 exists. Maybe some groups are still getting PSAs. But I
10 cannot say that I have personally seen any of them on the
11 four network affiliates in our market.

12 And we ended up having to buy time for the first
13 time in history at the diocese to get our jubilee and
14 conciliation spots on the air. We spent \$6,000.00 after my
15 Communications Advisory Committee recommended that it was
16 better to do that than not have them there at all.

17 Things aren't any better on the radio front. And
18 for the first time this past year, we had to buy time on the
19 radio, too. And we spent \$2,000.00 doing that. I really am
20 reluctant about that though because I believe this is air
21 time which should be given to the community. And it no
22 longer exists.

23 I don't have time to tell you the whole story.
24 But suffice it to say that I am very grateful for the
25 opportunity to speak with you about this today.

1 CHAIRMAN KENNARD: Thank you very much, Sister.
2 Mr. Paul Schroeder.

3 MR. SCHROEDER: Hi, Mr. Chairman. Thank you for
4 the opportunity. My name is Paul Schroeder. I am Vice
5 President of the American Foundation for the Blind for
6 Governmental Relations and President of the Alliance for
7 Public Technology.

8 I want to first commend you in particular, Mr.
9 Chairman, and your colleagues for your bold action last July
10 in approving a report and order on video description. That
11 action which I think took some real courage and certainly a
12 great deal of effort is going to bring television much
13 closer to millions of Americans who are blind or visually
14 impaired who have been missing out for good or evil, I admit
15 listening to today's discussion, on the benefits of
16 television programming.

17 I also want to commend you for the closed
18 captioning rule on digital TV receivers. It, of course,
19 continues the fine record of work in that area that has been
20 built by this Commission.

21 I have a couple of points that I would like to add
22 that I think we have an opportunity in the digital
23 television proceeding to build on that record. I also want
24 to add some points of a third area regarding access to
25 ancillary services that are likely to come about in the

1 digital television environment.

2 One of the biggest challenges in the video
3 description area, as you may remember from putting that
4 report and order together, is the limited space on which
5 video descriptions can currently be broadcast. These are
6 audio descriptions or narrative tracts that are added to a
7 television program that give a blind or visually impaired
8 viewer information about what is happening in the visual
9 elements of that program.

10 In the analog standard, of course, the only way to
11 deliver those is under something called the secondary audio
12 program channel. The beauty of the digital television
13 space, of course, is there is lots of spectrum available and
14 there are lots of audio channels available on that spectrum.
15 We think the time is right now to ensure that part of that
16 spectrum is reserved for video description.

17 I know that the Commission is holding off on
18 requiring video description in the digital television market
19 for the moment. I suspect that the experience that we will
20 all have under the report and order you have already put
21 forth will tell us that this is a good idea and you will, in
22 fact, want to move it into the digital environment.

23 Let's make sure that the band width is available
24 to do that now so that we are not going to have to try to
25 force video description into the marketplace of competition

1 for that audio channel space which, as you can imagine, is
2 going to fill up quite quickly, I have no doubt.

3 Two other areas in video description that I think
4 need attention. Part of the problem, also, of the secondary
5 audio program channel is the fact that either many receivers
6 either don't get it or it is difficult for a blind viewer to
7 enact that button.

8 We need to make sure that that gets rectified in
9 the digital environment to ensure that -- first of all, that
10 digital receivers receiving equipment can decode the audio
11 tracts for video description and mix those with the main
12 audio program and, secondly, that the receivers are easy to
13 use and that the -- at least the video description component
14 of that technology is, in fact, easy to access by a person
15 who is blind or visually impaired. But, obviously, it goes
16 without saying, we will ask the Commission to phase in video
17 description into the digital television environment.

18 In the closed captioning area, I think there are
19 some provisions that need to be addressed and affirmed. In
20 the first place, it would be important to affirm that
21 multicast programs which are available in DTV, all of those
22 programs, of course, should be closed captioned.

23 Secondly, it would be important to look at the
24 investments that are now being made to build up toward
25 digital television. It seems also an appropriate time to

1 invest in real-time captioning so that, in fact, we can
2 bring news and emergency information to individuals who are
3 deaf or hard of hearing in a real-time way.

4 Last, of course, if there is going to be public
5 interest requirements for locally produced programming, that
6 programming should be made available via closed captions.
7 There are some provisions in the current rule which could
8 cause trouble in this area with exemptions. Also, if there
9 is going to be requirements for political programming and
10 political candidates information, that information should
11 also, obviously, be closed captioned. There are some
12 exemptions that could affect that.

13 In the area of ancillary services, we have a
14 history of inaccessible communications technologies that
15 face people with disabilities. And you all have been doing
16 a great deal of work to try to address those
17 retrospectively. Why not do that now at the beginning, at
18 the dawn of this age? Electronic program guides, education-
19 enhanced information, all of these services that will be
20 available need to be made accessible.

21 Last, I would say that DTV and the internet will
22 draw closer together. There is no question. And I think
23 the Commission needs to look at how to make the internet-
24 based services that are going to be an important component
25 of the digital television environment accessible to people

1 with disabilities.

2 CHAIRMAN KENNARD: Thank you very much, Paul. We
3 appreciate your testimony. I want to go back to the
4 testimony of Henry Geller which I always love hearing Henry
5 Geller speak. In fact, as I was listening to you, I was
6 harkening back to the first time I heard you speak when I
7 was a second-year law student at Yale and you were a guest
8 lecturer. And I will never forget that you not only rattled
9 off the case names of many cases that I now know about, but
10 also gave the pinpoint cites. I notice that you have gotten
11 out of that practice, Henry. I really kind of miss it. But
12 --

13 MR. GELLER: It doesn't get you anywhere.

14 CHAIRMAN KENNARD: But I'm always intrigued by
15 your notion that we should replace the public trustee
16 concept, in effect, with a spectrum fee. But one of the
17 things that has always troubled me about it is that we still
18 do live in a world where most people get their news and
19 information from television. And most people still rely on
20 their local broadcast stations or networks -- locally
21 affiliated networks to get the information.

22 And so what is the -- there are some significant
23 trade-offs there that I am sure that you have thought about.

24 If you are suggesting that we in effect scrap the public
25 trustee model and take -- convert this into a spectrum fee,

1 what do you tell the people who are still going to rely on
2 commercial television, that your model won't work and it is
3 always counter to marketing incentives so are we just going
4 to give up?

5 MR. GELLER: It isn't trade off. But the two
6 areas I think of the greatest importance, one is children's
7 television programming. I have covered that already. And I
8 think you would be better off in relying on the commercial
9 one. I recognize the contribution made by very good
10 broadcasters such as sitting at this table. But the fact is
11 on children you would -- I think would be far ahead of it if
12 instead of starving public broadcasting and reduce starve
13 with a dollar per capita, whereas Canada is \$32.00 and Great
14 Britain is \$38.00. There we will gain.

15 When you get to the other area you mention, it is
16 the area of informing people, of informing them about news,
17 about emergencies, about all kinds of things. And I would
18 urge to you that the broadcaster would continue to do what
19 he does now even if you de-regulate him.

20 They provide news because it is essential to them.
21 It is a lead-in to the evening television. It is a money-
22 maker for them. They are not going to abandon news. You
23 have no requirement on news. You have a requirement for
24 issue-oriented programming. You never said how much. But
25 you are getting tons of news.

1 If the FCC disappeared tomorrow, they would not
2 affect in any way what is going on except in the children's
3 area, the three-hour requirement, some ownership rules. But
4 there what the broadcaster is doing, those who are very
5 good, have deep roots in their community and you help defile
6 what they are doing. But the other ones are doing very
7 little and nothing is happening to them.

8 You don't have any notion of what is going on
9 because you get a post card except in the children's area.
10 And what I am saying to you is I think even far ahead in the
11 area of informing the electorate, if you de-regulated and as
12 part of campaign reform done by Congress, not by the
13 Commission, you cannot do campaign finance reform. It is
14 very complex, all kinds of detail.

15 But if it were done by them so that they were
16 full-time, you would get two enormous contributions to the
17 public interest, in education and in the political
18 broadcasting. You would be contributing to an educated and
19 informed electorate. And I think that there is much
20 international interest to do that and move ahead.

21 CHAIRMAN KENNARD: Well, Henry, short of
22 Congressional action in this area, what do you suggest that
23 we do?

24 MR. GELLER: I -- you can't do it. It has to be
25 Congressional action.

1 CHAIRMAN KENNARD: Well, I understand that. But
2 if our Congress does not act --

3 MR. GELLER: Well, I wouldn't give it that. But
4 all I am saying to you is no agency except one rule kick-
5 back in 1978 has ever urged us in the government. That was
6 me.

7 CHAIRMAN KENNARD: Welcome back.

8 MR. GELLER: But what I would think is though that
9 you ought to -- if you had recommended it, it would have
10 carried greater weight from that one schmuck back then. I
11 recommend that you look at it and put it before you for
12 study and my discussion. If you don't do it, then I think
13 you are back to what Jim Goodman has told you already here.
14 We are operating with the present system.

15 You don't know how much money-chaining there will
16 be. And you don't know what is going to happen in
17 ancillary. You have to make guesses. But even under the
18 present system, what has to be emphasized is localism. Not
19 how do you reform people on national issues. There is so
20 much out there that goes on now. I think it is localism.

21 And you said it well. And I think, therefore,
22 there ought to be some minimum standard. I hate to be going
23 back over the past. But it is the future if Congress
24 doesn't act, also. At that point, you need a minimum
25 standard.

1 You have a renewal staff. When the renewals come
2 in, what are they to do if somebody has one percent
3 informational area locally? Do they claim? Do they deny?
4 Two percent, three? I think that the broadcasters are
5 entitled to know what the safe haven is for minimal and so
6 is the public and so is your renewal staff.

7 CHAIRMAN KENNARD: Thank you, Henry. Professor
8 Raskin has arrived. And is the traffic pretty bad out
9 there?

10 PROFESSOR RASKIN: Forgive me, Mr. Chairman. I've
11 got a million excuses for being late.

12 CHAIRMAN KENNARD: Well, we don't want to hear
13 those. Why don't you just go right into your testimony.
14 We'll just take five minutes.

15 PROFESSOR RASKIN: Sure. I'll just pick up on the
16 last dialogue. From the broadest theoretical perspective,
17 it is obviously important to distinguish what the market
18 provides to consumers and then what the market provides to
19 citizens. And there is no doubt that the market arguably
20 works for providing consumers what they want.

21 But it certainly doesn't work for providing
22 citizens with what they need in order to be effective
23 participants and members of the democratic community which
24 in the American Constitutional regime requires participation
25 at different levels, at the local level, at the state level

1 and the national level.

2 I would agree with the proposition that we have a
3 lot of information about what is going on at the national
4 level, but much less in terms of what is taking place at the
5 state and local level. And there I think it becomes
6 important in order to preserve community involvement and
7 participation to have a meaningful requirement of some
8 minimal coverage of local news and local activities and
9 opportunities for local involvement and participation.

10 Then I think that some thought should be given to
11 and some emphasis should be given to requirements of -- or
12 at least hortatory requirements or advisory requirements
13 about the importance of public debate. And we are
14 witnessing from the Presidential debates how televised
15 public discussion can mobilize and catalyze public
16 involvement and public participation. And the same thing
17 can take place at the state and local level.

18 I would favor requirements and regulatory
19 guidelines that would emphasize the maximum possible
20 participation of different views rather than the artificial
21 constriction and manipulation of electoral contest to see
22 that only certain views be represented. And that would be I
23 would think within the public interest mandate of the FCC.

24 But generally, you know, I think that we are
25 moving into an area where entertainment could very much

1 marginalize and sideline public debate, discourse and
2 communication and discussion at the local and state level.
3 And at the FCC, at least until Congress acts in the way you
4 suggested, really should be in the forefront of trying to
5 push the broadcasters to play that public interest role.

6 CHAIRMAN KENNARD: Thank you very much. Mr.
7 Taylor, you have been a very effective advocate on this
8 political discourse issue for some time now. And oftentimes
9 when we hear this issue discussed, in fact, when I have
10 advocated it myself, I often encounter a barrage of
11 questions: Well, it is too complicated and this can't
12 really be implemented and the political process is too
13 complex with different jurisdictions, different parties and
14 what not.

15 I have read some of your proposals on this that
16 are very elegant in their simplicity and very workable. And
17 I wondered if you could just tell us for a moment how you
18 think a free time requirement could work and how it could be
19 implemented with minimal complexity.

20 MR. TAYLOR: There are a couple of objectives we
21 are trying to accomplish with some free air-time regime.
22 One of them is to reduce the cost of political. The
23 largest single driver of the run-away cost of politics is
24 the cost of air time. Another it seems to me is to better
25 inform the public. And in the spirit of the public interest

1 obligation, I think that is what we have appropriately
2 focused on.

3 If you had -- the difficulty -- the complication
4 is that there is a big difference between a local
5 broadcaster let us say in the city of New York where you
6 have 30 or so Congressional districts within your viewing
7 area and in the city of Boise or Albuquerque where you only
8 have one. So how do you do all of that and how do you keep
9 a simple base for the candidate and for the broadcaster and
10 how do you serve the public?

11 One way to go might be some sort of voucher
12 system. You create a broadcast bank of time. Every station
13 contributes to the bank on some formula based on its gross
14 revenue. And then vouchers are handed out to qualifying
15 candidate and perhaps to the political parties. And they
16 spend -- this is like play money and you can only spend on a
17 broadcast station.

18 And if you want -- if you, the candidate, want to
19 advertise in New York and pay ten or 20 or 30 times the rate
20 that your fellow candidate may pay for Albuquerque, that is
21 your choice. And it will only go so far. And you could do
22 the same thing with political parties. That would tend to
23 level out the burdens on broadcasters. So that would be one
24 way to go.

25 Another way to go is the way that the Commission

1 has gone with air time for children's educational
2 programming, is you create a broad requirement, in the case
3 of children's television programming, three hours a week and
4 adhere to broad guidelines. And it becomes a part of your -
5 - to re-qualify for the license, you have to show us you
6 have done it.

7 It seems to me that this is the area that the
8 five-minute a night recommendation tends to push you in.
9 And whether five minutes a night is the right way to go or
10 whether you want some other broader guideline -- and this
11 would be something that I think the FCC would want to look
12 at. But the notion is every time an election season comes
13 around, there is something on the ballot whether it is --
14 and sometimes the most important thing to the viewer may be
15 the Senate race, may be the governors race, may be a ballot
16 initiative.

17 So you build a model that allows for all of the
18 flexibility that any common sense person would want, allows
19 for people like Jim Goodman and Paul LaCamera to make the
20 journalistic and public interest judgement. You hear the
21 menu of races going on in our market this season. Here is
22 what we are going to focus on.

23 And the other thing I would raise is that with Jim
24 Goodman and Paul LaCamera, you really do have two models
25 that are very different. I think they both very much serve

1 a public interest. But what Jim Goodman's station has done
2 with the air time under the five-minute a night standard has
3 been to say to candidates, in his case I think for governor
4 and lieutenant governor and other state-run offices, we are
5 going to give you two-minute slots and you can record what
6 you want to say and we are going to show them on some
7 routine and your opponents and on and on like this for the
8 30 nights preceding -- the 30 days and nights preceding the
9 election.

10 Paul LaCamera has gone to a more journalistic
11 model where he wanted to invite candidates in. He had some
12 frustration getting them all in. But he wants a mix of
13 interviews. He did some footage or whatever the candidate
14 was saying on the stump speech. He has his journalists
15 framing some of the issues.

16 My notion there in very much the spirit of the
17 Gore Commission recommendation is let 1,000 formats bloom.
18 It is not perhaps for any one body to dictate what is the
19 best way to do it. And here I think the values and virtues
20 of localism would very much come into play.

21 But it does seem to me that the lesson of this
22 past year, the very disquieting lesson is if you just do it
23 as a voluntary standard and rely on the industry to use its
24 journalistic and public interest instinct, then
25 unfortunately the Jim Goodmans and the Paul LaCameras of the

1 world will turn out to be very much the exception.

2 The rule is in industry that it is walking away
3 from informing the public because it has concluded from
4 bottom-line interest the public isn't that interested, it
5 doesn't get good ratings.

6 And it has also concluded, quite frankly, that the
7 air time that he wants to be involved with when it comes to
8 politics is the air time that sells. It will sell a billion
9 dollars worth of air time according to Wall Street
10 estimates, the television industry, this year. It will sell
11 more political spots than fast food spots.

12 And I think one of the reasons why we have lost
13 some of our audience for politics is the American public
14 gets bombarded by the ads. And that is the face of politics
15 in the concluding weeks. And I think it turns out to be a
16 disincentive to participation.

17 CHAIRMAN KENNARD: Excellent. Thank you very
18 much. And I would like to invite my colleagues to ask
19 questions at this time.

20 COMMISSIONER TRISTANI: I have a question.

21 CHAIRMAN KENNARD: Gloria?

22 COMMISSIONER TRISTANI: I want to first of all
23 thank every one of you for being here today. And as I
24 listened, Sister, I listened to you with particular
25 attention. And I was troubled by what I heard you relate.

1 Back, I don't know, 20 years ago, the broadcasters in your
2 community were doing certain things, serving the local
3 communities. And it appears now that they have given up on
4 that for whatever reasons.

5 I was also very happy to hear that, Paul LaCamera
6 and James Goodman, you are really serving their communities.

7 But I keep hearing you are the exception and not the rule.

8 And, Mr. Goodman, you pointed out, too, there ought to be
9 some minimal public interest obligation standards aimed at
10 localism, aimed at the station in whatever way, fulfilling
11 those local requirements.

12 You also said there ought to be some kind of
13 ascertainment process. Could you elaborate? Because it
14 sounds like what you are proposing or what you are believing
15 could help Sister Parks' community perhaps be better served.

16 MR. GOODMAN: Well, the concept is there should be
17 an ascertainment process in which the station talks to the
18 community and -- to understand issues and problems and talks
19 to community groups and reports on that -- and reports on
20 that process. I mean, it is part of the quarterly report
21 that we are talking about.

22 And then the station would be required -- I know
23 that is a bad word -- but would be required to run -- would
24 be required to do a certain amount of local public affairs
25 programming. The station could decide on the topic, who is

1 on it, when it runs. We did suggest that some should run in
2 prime time.

3 And then the station would -- the station would
4 also be required to run local public service announcements
5 as part of this localism mandate. I am trying to get in the
6 middle of on my right is the founder of greedy.com and on my
7 left is probably the best station operator in the country.
8 And I am trying to say there certainly is a way to talk
9 about this.

10 If we have a code, that the industry really needs,
11 and we have minimum standards that require local -- some
12 local programming, then I think we can take care of what
13 everybody wants to do, public affairs. Part of our public
14 affairs programming could be turned over to political. And
15 I did -- there are a couple of things I wanted to mention
16 about that.

17 In our case, we are not giving people free
18 commercial time. We are not saying give us your commercial
19 and we will run it. We are saying here is two minutes and
20 we want you to talk about -- we pick some of the issues and
21 they -- we say we want you to talk about the university bond
22 issue. The other thing we did that I thought was
23 interesting was we said you can't talk about the opposition.

24 This is not -- this is what is your position on
25 this issue. And I will say, I was telling Paul, we have

1 never had the positive -- of anything we have done, and we
2 have done a bunch over the years, we have never had as much
3 positive comment as we have had from putting the candidates
4 on to talk about their positions on issues.

5 And that could be easily done if we have a public
6 affairs requirement. It just becomes part of the public
7 affairs requirement 30 days before the election. It would
8 have to be a special time that we would set aside.

9 COMMISSIONER TRISTANI: Anybody else like to
10 comment on that? Mr. Geller?

11 MR. GELLER: I just wanted to say that in October
12 of 1993, the common cause filed a petition that was along
13 the lines of the second route that Paul Taylor gave great
14 discretion to the licensee. It was a five-minute fix in
15 prime time, but said that the licensee has complete
16 discretion what races he wants to choose or -- I just think
17 it is crazy to have all the focus on the national one. That
18 is covered so well.

19 There are a lot of local races that are important
20 to the community. The candidates don't have the money to
21 get on television. But it would be solely within the
22 discretion of the licensee. If he wanted to do the
23 Presidential, he could add to that.

24 And I would recommend -- it has been pending since
25 October of 1993. And I would recommend you look at it. It

1 is very simple. And it sets out why it is constitutional
2 and why it is within the FCC's authority.

3 CHAIRMAN KENNARD: What is the docket number,
4 Henry?

5 MR. GELLER: It was filed by a witness at a
6 meeting.

7 COMMISSIONER TRISTANI: Mr. LaCamera?

8 MR. LaCAMERA: May I add something? Thank you. I
9 would just like to follow up on what Paul Taylor had to say
10 about the five-minute concept. And since we were the first
11 ones to test it, there is a learning curve. And I think we
12 should be very encouraged by the number of stations and
13 station groups that have committed to it. Although as Paul
14 reported, some of them may be off to a small start.

15 And while we went into this with the best of
16 intentions last January in New Hampshire, we found that we
17 had the full participation of Mr. Gore and Mr. McCain and no
18 participate from Mr. Bush or Mr. Bradley. And so we had,
19 again, the best of intentions.

20 And the five minutes was going to be the minimum,
21 the threshold of what we were to do each evening. On some
22 evenings we fell short. And then when Paul and we,
23 ourselves, went back retrospectively and documented what we
24 did, we wound up averaging about four and a half minutes a
25 night.

1 So it's not -- none of this is idealistic by any
2 means. And the whole concept of free political time, please
3 understand that broadcasters realize the role we are playing
4 in political advertising and want to be part of whatever
5 comprehensive campaign reform occurs in the years ahead.
6 But for right now to come up with some sort of plan or
7 system of free political time, our experience is that that
8 is best defined by 60 minutes, unfettered minutes on the
9 Oprah Winfrey program.

10 Campaigns are enormously cynical and controlling
11 about how they want to appear, particularly on local
12 television stations. And it adds great complexity to it
13 when it undermines whatever idealism there is in that basic
14 concept. Thank you.

15 CHAIRMAN KENNARD: Commissioner Furchtgott-Roth.

16 COMMISSIONER FURCHTGOTT-ROTH: Thank you, Mr.
17 Chair. I had a question I would particularly like to
18 address to Mr. Goodman and Mr. LaCamera. Both of you are
19 with companies that have FCC licenses. There are hundreds
20 of thousands of FCC licenses, each of which has a public
21 interest obligation under the statute.

22 Suppose in some hypothetical world, the Commission
23 were to tell all FCC licensees that they have as part of
24 their public interest obligation an obligation to tell the
25 communities in which they operate, whether it is a small

1 area or nationwide, to provide some information about
2 political campaigns.

3 Suppose every time I turned on a cell. phone, I
4 heard the message, "Remember the date November 7th", or,
5 "Remember to register to vote." I randomly would receive a
6 political message from one of the political candidates.

7 Suppose my Part 15 device would chirp the message,
8 "Remember the date November 7th. "

9 CHAIRMAN KENNARD: It sounds like a great idea to
10 me.

11 COMMISSIONER FURCHTGOTT-ROTH: Suppose cable
12 operators who have FCC licenses had to provide five minutes
13 a night of free air time. Suppose your local telephone
14 company that has 214 permits had to begin every call with a
15 message. Suppose the IICs that have 214 agreements had to
16 do this, as well. And you, as well, did.

17 Let's take a little twist to my little
18 hypothetical. Let's suppose we removed all the obligations
19 of everybody except the broadcasters. We told the cable
20 operators, well, you don't have to. We told the satellite
21 carriers, well, you don't have to. Told the cell. phone
22 operators you don't have to. Told the industry users you
23 don't have to. And said only the broadcasters have to
24 burden -- have to bear the burden of providing free
25 political air time. How would you feel about that?

1 MR. LaCAMERA: I suppose what you are doing is in
2 some way arguing our case. Jim and I come from an industry
3 with a special distinguished legacy of 15 years of public
4 service which we take very seriously. Where Jim and I
5 differ is Jim as advocated, as you've heard, a return to the
6 formalities of the past. I look upon this as a more
7 contemporary twenty-first century situation and still
8 believe that we continue to serve and should do that on a
9 volunteer basis at our discretion and hopefully with a sense
10 of idealism that marks the operation of most television
11 stations.

12 So I don't particularly see the analogy. And I
13 may be handicapped by I think 30 years in the industry.
14 Jim?

15 MR. GOODMAN: I think that would be fine. As a
16 matter of fact, I think that is the way it should be. I
17 mean, I -- we have local television stations for a reason.
18 And that is to provide news and information and
19 entertainment and programming to the local community. That
20 is why we have them. That is what we are supposed to do.

21 And I have no -- I think, as Mr. Geller, said that
22 the public deserves to know what is expected of us. The
23 public should be able to measure our performance. It is a
24 public license. And I think we deserve to know what that is
25 because I can follow the rules. It is pretty tough to say

1 serve the public interest if you don't know what that is.

2 So I don't put -- I guess I --

3 COMMISSIONER FURCHTGOTT-ROTH: Do you think that
4 other licensees don't have public interest obligations?

5 MR. GOODMAN: To provide news and public affairs
6 and all -- no. I mean, I don't -- no. The phone company,
7 no. They don't have -- no, I don't. I mean, I'm not -- but
8 I can't -- that's -- I am just giving you my view as a
9 broadcaster which is that we have local stations for one
10 reason. We would have huge stations that cover everything.

11 But we don't. We have stations in all these markets,
12 especially doing local programming. There should be a
13 minimal requirement that we do a certain amount of this.

14 I think this is key to maintaining local
15 broadcasting in the future. Now, I am trying -- we are
16 going to a new technology and we are in a new century. But
17 that doesn't mean the local community is not important.
18 That doesn't mean that sort of the base value of what
19 broadcasting is put together for shouldn't be there.

20 I have read everything you have written about
21 this. And I am with you -- I am almost with you except it
22 doesn't make any sense to me to put together a local system
23 of broadcasting, tell those broadcasters they are supposed
24 to serve the public interest and then not tell them what
25 that is or the public which really -- she would like an --

1 the Sister would like an opportunity to know whether the
2 local broadcasters in her community are playing -- doing
3 what they are supposed to do. And I'm not -- I don't -- my
4 lawyer told me not to argue with you.

5 (Laughter.)

6 And I am not going to do it. I am going to quit
7 because you are going to run me out of here.

8 COMMISSIONER FURCHTGOTT-ROTH: You are doing fine.
9 Just keep on going. You are doing fine.

10 MR. GOODMAN: No, I'm not because I know what you
11 are -- I know -- but that's -- I'm -- on the one hand, I
12 believe we are the first to do -- by definition, we are the
13 first to do all those things. We are going to be high
14 definition. There's the whole thing, January 1, five hours
15 a day, all high definition news.

16 You can't push -- I'm not going to say we are not
17 leaders in technology. But that doesn't mean that I don't
18 think this value business we've got here about localism and
19 local service is not pertinent, it's not relevant. It is
20 more relevant than it has ever been because of all of the
21 other channels. And so I'm not --

22 CHAIRMAN KENNARD: Thank you very much.

23 COMMISSIONER FURCHTGOTT-ROTH: I am not suggesting
24 that it isn't. And I am just -- I am puzzled and, frankly,
25 I am surprised that you all would see that this is an

1 obligation that you alone have to shoulder and the rest of
2 the world gets a free pass.

3 PROFESSOR RASKIN: Can I take a shot at this? It
4 strikes me that the answer has to do with the character of
5 the medium and the nature of the forum that has been
6 created. It would be somewhat surprising to pick up your
7 cell. phone and have a recorded message saying, "Don't
8 forget to vote. Don't forget to vote." But then again, the
9 reason that we get telephones and engage in telephone
10 technology is so that we can call the people that we want to
11 talk to and they can call us.

12 So it goes back to the underlying purposes of
13 having broadcast television, broadcast radio. And I think
14 if you go back to the original statutory purposes, it was
15 precisely to create a sense of public community and
16 discourse to be able to talk about public issues. And I
17 think, you know, as you eloquently pointed out, that role is
18 every more urgently needed by the public for broadcasters.

19 That is, it is not a diminishing obligation. It
20 is one that grows in importance as we become more of a
21 nationalized market. In a certain sense, the whole idea of
22 a coherent local community depends upon local broadcasters
23 maintaining their determination to cover local news, to have
24 local community proceedings, counter proceedings, municipal
25 proceedings put on the air and to have the opportunities for

1 people to comment and discuss and debate them.

2 COMMISSIONER FURCHTGOTT-ROTH: Well, thank you
3 very much.

4 CHAIRMAN KENNARD: Commissioner Ness.

5 COMMISSIONER NESS: Yes. Continuing this debate a
6 little bit, certainly the satellite DBS providers have a
7 four percent set-aside for public interest programming, for
8 educational programming. And the cable folks have a five
9 percent franchise fee typically in most jurisdictions, plus
10 they have set-aside pay channels for public education and
11 governmental use.

12 There is an E911 requirement. And the PCS
13 providers have had to pay for their spectrum fairly
14 substantially in order to be able to provide the service
15 that they provide for the public. There is universal
16 service requirements on telephone companies including
17 carrier of last resort requirements where they have to
18 string wires into the far reaches of this country in order
19 to be able to provide service.

20 There is hopefully minimum standards of service
21 requirements for many of these carriers, as well, to ensure
22 that the messages do get through from customer to customer.

23 So each licensee has certain obligations that exist
24 essentially commenting on what you just said, Professor
25 Raskin, that it is commensurate with the type of service

1 that they are providing to the public.

2 Broadcast has an enormous value to this country.
3 It has been -- it has provided an incredible service year
4 after year after year, day after day after day. One
5 particularly focused on the local communities. And I have
6 known many, many broadcasters over the course of the last
7 two decades who have an extraordinary sense of commitment to
8 the markets. A sense of idealism still exists among many.

9 That having been said, I would like to pursue a
10 little bit further what Mr. Goodman has suggested. One of
11 the notions that he thought would be appropriate and the
12 Gore Commission thought would be appropriate was willing to
13 ascertain to the process. And I was wondering if Mr.
14 LaCamera could comment on that concept.

15 It used to be there. It has kind of gone by the
16 wayside. Was it useful? Where did it go wrong? Is there
17 something that, once again, broadcasters can focus on in
18 service of the local community.

19 MR. LaCAMERA: It became an exercise. And I will
20 share an anecdote and a very true one with you. Congressman
21 Buddy Frank, who is a brilliant, very colorful figure, the
22 last time I interviewed him under the formal ascertainment
23 process. He conducted the interview and swung his chair
24 around with his back to me, and he said, "This is an
25 expression of my protest against this exercise." And I

1 think that is somewhat representative of how many people
2 felt about the process.

3 There is no doubt that it was always a learning
4 experience. You always learn something from everybody you
5 talk to. But, again, any worthy broadcaster -- and you
6 talked through morning and we have talked through this
7 afternoon's session, there is no doubt that some people are
8 operating at the minimum.

9 And that is indefensible. But I don't know
10 whether you correct that. And I don't believe we should
11 correct that by a return to the past and imposing procedures
12 and regulations that really are very much outdated in
13 today's abundant media environment, an enormously changed
14 and different competitive environment.

15 I mean, at one time when Jim and I thrived
16 probably in this business, we were part of an oligopoly.
17 There was ABC, CBS and NBC. And now it is so enormously
18 vastly different, particularly in a city like Boston which
19 is a heavily wired city. Cable penetration, as Commissioner
20 Tristani suggested this morning, is often a function of
21 economics.

22 Boston is a very high end, prosperous, well
23 educated city. The internet usage is enormous. And it is
24 really a good witness to tremendous erosion of viewership in
25 the marketplace. So it is very different today operating a

1 television station. But that is not to say, to embrace your
2 words, that the idealism and tradition, which has always
3 been a guiding principle of most television stations in this
4 country, should be abandoned.

5 And the issue is, and I believe that it is much
6 more appropriate in today's environment that that be one
7 conducted on a voluntary basis, a market basis.

8 COMMISSIONER TRISTANI: Can I just ask, was that -
9 - because I don't know that much about the ascertainment
10 process. I came here three years ago.

11 MR. LaCAMERA: Right.

12 COMMISSIONER TRISTANI: But was it always this
13 kind of pointless exercise for the air or --

14 MR. LaCAMERA: No. Like I said, it was always a
15 learning exercise. But hopefully in today's increased
16 informational age that people who are running television
17 stations and operating on the department letterhead logo
18 television stations have those ties and involvement and
19 knowledge of the community.

20 We set up a formal appointment, go out and meet an
21 array -- representative array of so-called community leaders
22 from political leaders to people who headed pro bono groups
23 to community activists. And as I said, it was always a
24 learning experience. But it was an artificial exercise.

25 And I think both parties recognized that. And,

1 again, a good broadcaster, which I deeply believe are most
2 broadcasters, it is not necessary today.

3 COMMISSIONER TRISTANI: Having been on the other
4 side of that exercise as a community activist for about a
5 decade and earlier on in my adult life, I know that
6 broadcasters use to come out and talk to the Commission for
7 Women or the Charter Review Commission, both which I
8 chaired. And there was a good exchange of information.

9 Today, we have in my example a county which has a
10 population in excess of 550,000 people. But the
11 broadcasters in this metropolitan area do not county
12 executive races. They don't even at the time -- perhaps
13 this has changed -- but they did not even accept political
14 advertising from county executive races because there were a
15 number of different jurisdictions in the area. And the
16 concern was the proliferation.

17 But how can one address a situation where a county
18 of that size, for example, has virtually no discourse on its
19 commercial television stations even during the course of a
20 campaign?

21 MR. LaCAMERA: Well, again, groups this morning
22 discussed the impact of disenfranchised parents contacting a
23 television station, meeting with them and whatever. I mean,
24 I think those avenues of accessibility are always open. And
25 even what we think is the enlightened city and an

1 enlightened television market of Boston, that happens all
2 the time and continues to happen.

3 It was interesting. I was reading in some NAB
4 materials. And they try to document the good works of
5 broadcasters and do a wonderful job. And when you see it
6 combined -- and, I mean, it is overwhelming impressive. But
7 I read about one station that did a 30 minute documentary in
8 prime time on attempting to butcher the Americans with
9 Disabilities Act. Again, as enlightened as I consider to be
10 our television station, that thought process would not have
11 occurred to me or any of my managers.

12 And, again, so it is that kind of input that
13 people should feel comfortable going -- and it frequently
14 happens. I mean, we are involved, you know, in a large
15 social justice issue in our city because those are the
16 people knocking at our doors. And I was very sad to hear
17 Sister's story.

18 First of all, my roots are Sisters of St. Joseph.
19 And I knew that I wouldn't be sitting on this panel with a
20 Sister of St. Joseph who had worked ten years in
21 broadcasting. I would have never gotten on that shuttle.

22 But, again, she is obviously describing a station
23 that is operating perhaps at the minimum. And that is very
24 sad to hear. But, again, I don't think you address that by
25 looking at the whole --

1 CHAIRMAN KENNARD: But how do we address that?

2 COMMISSIONER NESS: Mr. Goodman.

3 MR. GOODMAN: I shouldn't have used the word,
4 "ascertainment." I really dated myself. What we actually
5 called it in our report, what I think -- community outreach.
6 And we didn't suggest we go back to meetings and all that.
7 We said that the station would regularly promote the fact
8 that it wanted input either by mail or electronic mail and
9 that in its quarterly report on its programming, it would
10 talk about how that conversation that developed affected the
11 programming that they did.

12 So we were not suggesting ascertainment as we know
13 or the rules of ascertainment. We are just saying that the
14 community outreach notion is an important one. In put from
15 the public.

16 COMMISSIONER NESS: And certainly, as cable
17 systems engage in clustering where they cover a metropolitan
18 area, there is more and more activity on cable systems that
19 addresses some of the local issues then sometimes I find on
20 the local television stations. That ended up being perhaps
21 giving up of your birthright. And that is a frightening for
22 broadcasters.

23 MR. LaCAMERA: Those are cases that are
24 complementing or supplementing our birthright. I mean,
25 cable does have the ability to provide niche programming.

1 And all of us have our special interests. And cable can
2 often serve it better. But in terms of serving the
3 community as a whole in dealing with the -- you know, the
4 most pronounced public policy issues of that community, I
5 still believe broadcasters do a pretty good job at it.

6 COMMISSIONER NESS: And certainly, James -- Jim,
7 your approach where you have a multiplicity of channels on
8 the digital is one way of addressing --

9 MR. GOODMAN: All of those.

10 COMMISSIONER NESS: -- the different communities.

11 MR. GOODMAN: But your question was what do we do
12 about that.

13 COMMISSIONER NESS: Yes.

14 MR. GOODMAN: I can't say give me the license and
15 trust me. I mean, there is no circle of logic there. I
16 mean, I -- there are certainly many fine -- and I am talking
17 about the future now. I am talking about the future. We
18 are going forward with the digital stations. And the
19 concept of minimum standards so that the public knows what
20 is required of us and we know what is required of us is to
21 me a very logical sort of approach to what we are trying to
22 do.

23 Now, Paul is worried. I am worried. The NAB is
24 worried. Everybody is worried that, okay, Jim -- and they
25 have said this to me, okay, Jim, well, these standards, that

1 makes a lot of sense. But this is just going to open the
2 door. We are going to get started in this ever-spiraling --
3 it is one hour a week now and the next Commission it will be
4 three hours. If we ever get into this, we are cooked.
5 There is no end to it.

6 There has been some suggestion that Congress ought
7 to do this. But -- and even with that fear that by getting
8 started on this we are a run away train, it is very logical
9 to me that the public should know and we should know the
10 minimum requirements for satisfying the public interest. I
11 cannot logically argue against that.

12 It doesn't have anything to do with how
13 broadcasters are operating now. It has to do with how we
14 are going to run this place, these things in the future. So
15 that is my answer to what we are going to do it, minimal
16 standards to give the broadcasters an unbelievable
17 flexibility to operate within the parameter of local
18 programming.

19 COMMISSIONER NESS: Is this something that could
20 be subsumed within a voluntary code?

21 MR. GOODMAN: We could certainly have
22 recommendations of a voluntary code.

23 MR. LaCAMERA: I mean, for the record, and I
24 presume the NAB witness here, the NAB has both antitrust and
25 constitutional concerns about the --

1 COMMISSIONER NESS: Assuming the antitrust issues
2 could be addressed.

3 MR. LaCAMERA: I supported it publicly as a member
4 of the Gore Commission and remain enthused about the
5 concept.

6 COMMISSIONER NESS: Mr. Chairman, I believe Sister
7 Parks has wanted to chime in here.

8 SISTER PARKS: I don't know. Is it appropriate to
9 do that?

10 CHAIRMAN KENNARD: Yes, please.

11 SISTER PARKS: I just wanted to say that if you
12 could claim the two gentlemen over here, we would be a lot
13 better off. And Mr. LaCamera is way too modest. As a
14 member of UNDA which is a professional Catholic
15 communications group, how many years in a row have you been
16 the best broadcasting station in the United States by our
17 terms?

18 MR. LaCAMERA: You are right. I had Sisters of
19 St. Joseph.

20 SISTER PARKS: Well, thank you. I will take the
21 credit. But could I just say that, you know, if there was
22 that much competition for what he does, his station wouldn't
23 be winning year after year after year after year. He is way
24 too modest. We need a lot more broadcasters like the
25 gentlemen sitting at this table.

1 CHAIRMAN KENNARD: I think what we are hearing is
2 that these gentlemen are the exceptions and not the rule. I
3 mean, that's what I heard. That is what I heard from --

4 MR. LaCAMERA: It is not the case at all, Mr.
5 Chairman.

6 MR. GOODMAN: My view is we don't know. How do we
7 know? There is no reporting requirements. I mean, we know
8 stations are doing great things. But, I mean, we don't know
9 how much -- there aren't any reporting requirements. That
10 is why one of the first things we said was list -- let's
11 come up with sort of a quarterly report and let's -- so the
12 truth is we don't know.

13 But we do -- we don't know factually. We do know
14 that there is a whole lot of good things done by
15 broadcasters. But -- yes.

16 MR. LaCAMERA: Wonderful things.

17 MR. GOODMAN: Yes.

18 MR. LaCAMERA: Admi rable.

19 CHAIRMAN KENNARD: Well, for the record, one of
20 the --

21 MR. GOODMAN: Entertainment though. When you hear
22 Paul start with his stuff, you get to wondering a little
23 bit.

24 CHAIRMAN KENNARD: Just for the record, I wanted
25 to note that there is a pending proceeding proposing

1 enhanced disclosure requirements of just this sort of local
2 originated programming so that we can get a better handle on
3 what broadcasters are doing in their local markets.

4 MR. GOODMAN: I think Paul wrote that for the Gore
5 Commission, didn't he? Do you want to --

6 MR. LaCAMERA: Yes. I mean, again, Jim is so
7 generous in many ways and certainly doesn't represent the
8 thinking of the vast majority of broadcasters. And I am
9 probably in the middle, more moderate ground. Then, of
10 course, you have a large group of strict constructionists
11 who are very concerned about First Amendment.

12 And I am, as well. But as I, again, said in my
13 companion submission to the Gore Commission report, I deeply
14 believe that broadcasters still have an enviable record of
15 public service. And I don't think there should be any
16 hesitation to document that.

17 MR. TAYLOR: Can I make one quick comment on
18 disclosure?

19 CHAIRMAN KENNARD: Yes.

20 MR. TAYLOR: It is a first cousin of what we have
21 been talking about. But it is disclosure of revenue from
22 political advertising. Some years ago, the FCC imposed a
23 regulation on all stations that it keep a so-called public
24 file of all the ad revenue it received from political
25 candidates. We think this is a useful tool. We think the

1 reasons for it are very sound. When you have political
2 advertisers on your local stations, you, the public, deserve
3 to be able to know and go and find out how much they cost,
4 who is paying for them, et cetera.

5 These rules were crafted in an era where the only
6 advertisers in political campaigns were the candidates
7 themselves. That era doesn't exist any more. And now we
8 have political campaigns -- a lot of political campaigns
9 where it is Candidate Jones and Candidate Smith are not the
10 two biggest advertisers in their own race. It is their
11 respective political parties and it is the issue advocacy
12 groups.

13 And I would think on the disclosure front, I would
14 urge you to consider a more robust disclosure for the public
15 file when it comes to political advertising so you would
16 have a clearer picture of how much money is moving into the
17 broadcasting industry.

18 CHAIRMAN KENNARD: Thank you. Commissioner
19 Powell.

20 COMMISSIONER POWELL: I want to turn to the issue
21 on the ads. You said you don't question the logic. Let me
22 make a separate challenge. Sometimes minimal standards
23 codify minimum behavior. That is, that, you know, oh, throw
24 me on the briar patch. That is, if there are minimal
25 standards, there won't be necessarily the pressures to

1 produce higher levels of local oriented programming or more
2 interested programming.

3 It seems to me -- I would agree with the point Mr.
4 Geller made which is I don't think anybody needs to be
5 beating local television stations into local news in most
6 markets. I think there is competitive and economic reasons
7 why those programmings are provided.

8 Sometimes what I get concerned about, about
9 pictures about minimal standards, is they do then make that
10 the minimum that in some oligopolistic way everyone sticks
11 to it. One of the things I think -- I think Mr. Geller's
12 proposal deserves some very serious consideration for a
13 number of reasons. Number one, it starts to harmonize the
14 treatment across multiple mediums that we know are competing
15 for the same entertainment, kind of consumers or products.

16 It seems to me that it allows you to create a
17 format for the subsidization of true market failures. And
18 by removing this special status, it requires people to
19 compete quite aggressively and to differentiate themselves.

20 And these programmers might produce a lot better than the
21 government would be able to bring itself constrained by the
22 First Amendment to minimum standards.

23 So I guess I throw that open for your response.
24 But particularly, I am curious as to what broadcasters'
25 responses are to a proposal like that and why it is

1 appropriate or inappropriate. And then I will follow up. I
2 have a question for Professor Raskin.

3 MR. GOODMAN: There are broadcasters that do their
4 -- I have -- you know, I have concentrated on public affairs
5 and public service announcements. I have concentrated on
6 those. But there are television stations that don't do any
7 local news. I mean, I think there are a group of stations
8 that do much more than these minimum requirements that we
9 have as a -- because of who they are and what they think and
10 what they are supposed to do.

11 I also think there are stations that don't do any
12 of it. And we are working on the -- we are working on at
13 least establishing as a floor that this business is about
14 localism. And if you want this license, then you need to do
15 some local programming. I think the stations that for all
16 kinds of reasons want to do more will do more as a sort of a
17 business issue.

18 And I was -- what did I think of Mr. Geller's
19 suggestion. It sounded like to me he was giving up on us.

20 COMMISSIONER POWELL: Or saying you are not
21 special.

22 MR. GOODMAN: Yes. Well, I think he thinks we are
23 special. And I think he believes in localism. And I think
24 he believes we have gotten to the point that since there are
25 no requirements and the public interest notion is not

1 defined, then let's go ahead and get some money and fund
2 public television. I mean, that's -- but that's -- I can't
3 -- how is that, Mr. Geller?

4 MR. GELLER: I have given up. I agree with that.
5 But I want to tell you why. The Commission in '81 and '84
6 said just send a postcard in. We are going to rely on the
7 public. The public is out shopping at malls and does not go
8 into stations and won't go over the list and file a petition
9 to deny.

10 I don't know how many petitions to deny we've
11 gotten. If you did get them, you would be embarrassed by
12 them because if there was a very small amount of local
13 public service, you never told the broadcaster what he had
14 to do. He is in the dark because everything is so mushy.
15 And in the Greater Boston case in 444 Fed. 2nd --

16 (Laughter.)

17 -- the Court said that many standards ought to be
18 -- the discretion to deal with removal ought to be contained
19 by some standards. But I really do come back to that it is
20 very difficult to handle this area. We are in a First
21 Amendment area where it gets very sensitive.

22 Reed Hunt when he did the three hours of meetings,
23 he said that "Inside NBA" doesn't qualify. And he now named
24 the two educational psychologists that said it did. I don't
25 know how you handle this area at all. It is a social

1 purpose. I am now just sticking with one example, the
2 educational one.

3 You can cite social purpose. If you cite that the
4 "Little Mermaid" teaches girls how to be leaders, what are
5 you going to do with that? And you can go on and on that
6 way. And all I was suggesting is that what you want is high
7 quality public service programming. The government can't do
8 quality. It is subjective. It would violate the First
9 Amendment.

10 And, therefore, I suggested that if you take them
11 out and you give it to somebody who does want to do it, then
12 you don't have to worry what they do, what is the quality.
13 We know what public broadcasting will do. And finally, I do
14 come back to what Commissioner Powell has said. There has
15 been an explosion here.

16 You have cable in about 68 percent. You have DBS
17 in ten percent and growing or however much. But you have
18 almost 80 percent now getting digital, multi-channel
19 programming. We have the internet coming along and the
20 video screen will come get the broad band.

21 And it seems to me that the Congress failed in the
22 '96 Act. It did something right about the common carrier
23 area. But it just kept a 70-year-old thing going back to
24 1927, even though it is in the twenty-first century. And it
25 makes no sense to single out broadcasting for this very

1 difficult behavioral content regulation that is ineffectual.

2 I'll petition to deny coming in. The emperor has
3 no clothes here. And I think you ought to move on. And
4 that is what that was about.

5 CHAIRMAN KENNARD: Mr. LaCamera?

6 MR. LaCAMERA: Well, obviously, I couldn't
7 disagree more on several fronts. First of all, you used the
8 term, "special", Commissioner. And for better or for worse,
9 many Americans have if not most Americans now receive their
10 local television. I am sure that is not what you would
11 encourage for your sons and what I encourage for my sons.
12 But as long as that is the case, we are going to take this
13 seriously.

14 Secondly, the issues of -- that were discussed
15 this morning and this afternoon about spectrum fees or pay
16 or play, it is not something that most broadcasters have
17 been interested in whatsoever. I mean, I think the last
18 time in Boston that a group bought their way out of their
19 public obligations was in the Civil War. They paid off
20 people they fight for. We have no interest in paying off
21 people to perform our public obligations for us, as well.

22 So, again, I know on these issues that, you know,
23 sometimes when I have had the opportunity to represent our
24 industry -- people say Boston is different. WCVB is
25 different. Hearst Argile is different. But you continue to

1 expand that. I sincerely also believe that I, more than
2 Jim, represent most broadcasters in this country in these
3 beliefs.

4 MR. GELLER: In ten seconds, I just want to say I
5 don't believe in pay or play. I don't want them to play. I
6 want them to pay. That's it.

7 CHAIRMAN KENNARD: Commissioner Powell, did you
8 have any other questions?

9 COMMISSIONER POWELL: Well, it was less a question
10 than an ask for an expansion. Professor Raskin, you sort of
11 talked about -- you quickly rushed over a phrase in which
12 you thought that there was a danger of entertainment
13 diverting interests from civic discourse which I thought was
14 an astute observation, particularly your distinction between
15 consumers and citizens which I think really gets to the rub
16 because part of the problem with the rampant criticism
17 about, oh, financial interests instead of public interests
18 first is if that is really an initially exclusive choice.
19 Because, one, I don't understand if you have always pursued
20 a commercial broadcasting industry.

21 And one of the things that financial interests
22 means is the maximization of eyeballs by virtue of the fact
23 that the content is given away from free in essence. So the
24 money is made by maximizing people watching it which it is
25 sort of the way I think this area gets most touchy. Because

1 it is not about what consumers are watching or choose to
2 watch. It is about what we would sort of -- to use a dirty
3 word -- prefer they watch or at least maximize their options
4 or at least some lesser version of funneling their
5 interests.

6 That then gets to what you were touching on. What
7 I find challenging about that, which I think is a fair
8 construct -- what I find challenging about it is with the
9 explosion that Henry Geller just talked about, the
10 competition for diversion is enormous and certainly not
11 limited to broadcasting. And I am sort of intrigued by the
12 notion that on the Presidential debate day, I guess we
13 should close Blockbuster video, we should deny people access
14 to books.

15 How were you suggesting that this trend which I
16 think you have rightly identified about entertainment of
17 what the consumers may choose over civic mindedness and is
18 that -- is there really a place for that in communication
19 policy?

20 PROFESSOR RASKIN: Well, I think there has got to
21 be because if there is not in communications policy, it is
22 hard to see where we do deal with it.

23 COMMISSIONER POWELL: And education policy, civic
24 minded, you know.

25 PROFESSOR RASKIN: Well, I think it is all of a

1 piece. I mean, there is an important symbolic and
2 expressive dimension to what you do in this field. I mean,
3 if you say either there is no meaningful public interest
4 requirements that we are going to be able to lay down
5 guidelines for, we are not -- we were going to police them,
6 essentially what we are saying is that we will leave it to
7 either the dwindling band of broadcasters who really believe
8 in a public citizenship ethic or we are just going to let
9 the market decide.

10 But I guess the point I am trying to make is the
11 one that you referenced which is that there is a difference
12 between the project marketplace, the realm of economics and
13 the realm of politics. And it is true that precisely
14 because of the kind of broadcasting we have developed as
15 well as other cultural trends, people are much more prone to
16 view themselves as consumers and to want to be passive
17 spectators of television and then active consumers. People
18 go out and buy things.

19 And I think the government is not an innocent
20 bystander here to say, well, if people want the consumers --
21 or the consumers if they want to be citizens, we will let
22 them be citizens. I think the government specifically
23 addresses this. You have to structure meaningful
24 opportunities for people to be citizens and to take your
25 role seriously as making sure that there are opportunities

1 for real civic education and involvement to go on.

2 And the reason that I link this to the question of
3 critical debates and candidate forums are that if those are
4 done in the right way and, that is, that they are open to
5 all candidates or different political parties and
6 persuasions, there is a lot more public interest and a lot
7 more engagement with them.

8 To the extent that they seem more like rehearsed
9 spectacles where all the important issues have already been
10 decided. And it is a control format and discussion. And
11 people do tune out and they would rather watch mud wrestling
12 or what have you. So that is why I think it is important to
13 profess the importance of democratic pluralism at the same
14 time that we say that there has got to be an obligation to
15 cover local, state and national.

16 I guess the last point on this is that Tokeville
17 said that the spirit of freedom in the United States draws
18 in local community. That is the opportunity where people
19 actually have the occasion to taste freedom and what it
20 means to see fellow citizens engaged in a common public
21 enterprise and to be seen by other citizens engaging in
22 common public enterprise.

23 And if we let that go, we literally could lose
24 what it means to have public space as public spaces get
25 bought up and privatized in different facets. So the

1 obligation you have here is tremendously important on both
2 the mere material level and also at the symbolic and
3 expressive level, as well.

4 COMMISSIONER POWELL: Just two quick points.
5 Thank you. I mean, I thought that was very insightful. But
6 the tension that I find as a public policy maker is --
7 another form of our citizenry is the right not to do those
8 things you suggest. I would never suggest that an American
9 citizen is not free to disengage if he or she chooses. And
10 the government won't otherwise chorus that participation.

11 I'm saying Tokeville himself predicted the demise
12 of America many centuries ago because it is believed that we
13 value too highly individual choice of freedom. And that
14 individualism would destroy the public. Thank goodness it
15 didn't happen.

16 But I just throw that out as part of the tensions
17 we deal with in this area, is -- and I am deeply concerned
18 about it. Paul Taylor and others have really highlighted
19 the concerns that this has for a functioning democracy. On
20 the other hand, sort of up to the limits of one's right not
21 to if they choose.

22 CHAIRMAN KENNARD: Okay. I wanted to come back to
23 Paul Schroeder who had a comment he wanted to make.

24 MR. SCHROEDER: Thanks. I feel like we have
25 missed out on something here. We have been talking about

1 those who are privileged to use the public space. But we
2 haven't been talking about the whole public that it seems to
3 me they are obliged to serve.

4 And this whole business of community outreach, I
5 think many of us in the disability community would be
6 thrilled if a broadcaster would ever come and talk to us and
7 get our views on what is important. And many are starting
8 to do that which is commendable. And I don't fault Paul's
9 station for not thinking of doing the ADA.

10 But maybe if there were some EEO rules that talked
11 about diversity and seeking and recruiting people with
12 disabilities, there might be folks on staff who would remind
13 you of that kind of commitment. And maybe if there was some
14 form of community outreach where we were talking to other
15 organizations, there might be folks who would bring that to
16 your attention because it is not the kind of thing that
17 Frank or somebody who hasn't been challenged by disability
18 is going to think of probably on their own.

19 I would say this. You've got in a couple of
20 months the fifth anniversary of the Telecom Act. How about
21 doing something a little different and taking a documentary
22 on access provisions for people with disabilities, that act?

23 I know you are going to do something on where the money
24 went. And everybody is going to do that. But how about
25 looking at something that doesn't get covered sufficiently?

1 And I would turn I guess Commissioner Furchtgott-
2 Roth's analogy not on its head, but back a little bit and
3 say what if all of that information he talked about came to
4 you in a language that isn't yours and could only be made
5 available if you could find somebody to translate it? Or
6 what if every other word were obscured? Or what if it was
7 mimed over your cell. phone? That would be useful.

8 That is the kind of challenge that people with
9 disabilities face. We have talked a lot here this afternoon
10 about whether the Commission can effect the content and the
11 nature of programming that is provided. And I don't have a
12 dog in that fight I guess. But -- directly for my purposes
13 today.

14 But I do think the Commission has a very key role
15 to play in setting expectations for consumers and for in
16 this purposes broadcasters in the digital environment. And
17 that is to make sure that whatever they are doing, whatever
18 content they choose to provide and however they choose to
19 provide it -- we haven't talked a whole lot about what this
20 digital television space is going to look like today. But
21 it is not going to be the same, obviously, as what people
22 confront now on their television dials.

23 So however that information is provided across
24 these digital channels, high definition channels, extra
25 audio channels, data channels, however that is provided, we

1 have to make sure that the whole public is served by that
2 information. I haven't heard a word about that today
3 unfortunately. And I am not faulting. I guess that is why
4 I got to be on this panel, so that I would make sure that it
5 got raised.

6 But I do hope that the Commission will take this
7 opportunity to set clear expectations. We have heard from
8 the broadcasters here that they need to know what they are.

9 The consumers, including consumers with disabilities, have
10 a right to know what is expected, too. And I think at the
11 dawn of this digital age is the time to set these
12 expectations, not two or three years later once things are
13 set in stone and then we are trying to dismantle some of it.

14 CHAIRMAN KENNARD: I couldn't agree with you more.
15 If there are any questions -- more questions for the panel.

16 COMMISSIONER TRISTANI: I have --

17 CHAIRMAN KENNARD: Okay. Let's go to Commissioner
18 Tristani. And I really want to open the mikes and get some
19 opportunity for people to ask questions of the panel from
20 the floor. So if you could -- if you have questions out
21 there, please be thinking of them. And Commissioner
22 Tristani, why don't you go ahead.

23 COMMISSIONER TRISTANI: Yes. I had a follow-up
24 question for Mr. Taylor and actually for others on the
25 panel. Paul, you mentioned that the disclosure -- I don't

1 know if you want to call it requirement -- but that being
2 the public file, the amount spent on campaigns by candidates
3 has been a good thing. And I've got to agree with you. It
4 has got to be good for the public to be informed who is
5 paying for these ads.

6 And you mentioned it would be a good thing if now
7 the public might be informed what are the groups that paid
8 for that. Do you have any figures on how much money is
9 actually coming in from candidates versus groups? And then
10 for others, I would like you to comment on whether you think
11 could be a good thing to have these requirements apply to
12 all the money that is spent on the electoral process.

13 MR. TAYLOR: Commissioner Tristani, we don't have
14 hard figures because there is no place they are collected.
15 So it is a frustration. We can make some estimates on the
16 Annenberg Public Policy Center, for example, has tracked
17 these so-called issue groups that have done a lot of
18 advertising around campaigns and estimates that the spending
19 is in the neighborhood of 300 million dollars on television
20 ads this year. But that is just an estimate. And it is not
21 based on any hard data.

22 But just to stay with this point, I mean, I think
23 it very much feeds in to the very eloquent statement that
24 Professor Raskin made and the broadcasters here on how
25 precious the public square is. And I, too, am in awe of

1 Henry Geller. But I, like the broadcasters, disagree with
2 him on having given up.

3 There is a marketplace rationale for singling out
4 the broadcasters. In addition to the democratic rationale,
5 in addition to 70 years of constitutional history here, here
6 we are in the year 2000, this extraordinary medium-rich
7 environment we all recognize is happening before us, the
8 typical candidate will spend between 80 and 90 cents out of
9 every dollar on a local broadcast station. We are talking
10 about candidates for President down to dog catcher.

11 That in this extraordinary media-rich environment,
12 that is where the overwhelming percentage of the money goes
13 because the candidate understands the unique power of
14 broadcast television because it is based in the community,
15 because it is in 99 percent of people's households, because
16 it comes over the air for free.

17 So that has become the arena for the most powerful
18 communication in our campaigns. And when Paul LaCamera says
19 his problem is he has no races to cover this year, one of
20 the reasons is we don't have very many competitive races for
21 Congress or any other office because we have created this
22 pay-to-play model.

23 You want to talk in the most important medium of
24 communication, you have to raise a million bucks if you are
25 running for Congress or \$500,000.00 if you are running for

1 state senate. And a lot of people can't hit that threshold.

2 So it is a very incumbent-friendly system we have evolved
3 into.

4 One of the reasons why it is so difficult to
5 change the law is because the incumbents are the ones who
6 write the law. But I do believe that the market is telling
7 us something very important here which is that broadcast
8 television remains uniquely powerful in the realm of
9 political discourse. And if you want to look for places to
10 get better and more robust information than just what you
11 get from the 30-second spot -- and doing away with it
12 doesn't disadvantage people without any money -- you've got
13 to a little broadcast television.

14 COMMISSIONER TRISTANI: Anybody else want to
15 comment on that?

16 MR. LaCAMERA: Well, as far as enhancing your
17 reporting system, I don't think any broadcasters would
18 object to that if it would be helpful to the process. What
19 you should know is aside from a few groups like Paul's, most
20 people who are interested in what is in their public files
21 are their campaigns. And they visit them every day to see
22 what the other candidate is spending.

23 COMMISSIONER TRISTANI: I know that.

24 MR. LaCAMERA: It is intriguing to watch.

25 COMMISSIONER TRISTANI: Having been in a campaign

1 myself in my past.

2 MR. LaCAMERA: Right.

3 CHAIRMAN KENNARD: Yes?

4 MR. GOODMAN: If I may just make -- and this is a
5 little off the subject. The issue is how obtuse my views
6 are compared to the typical broadcaster's views. And while
7 I think Paul thinks I am a little out of touch, but in a
8 different position, I really do view my -- what I have
9 suggested as in between greedy.com and the best operator in
10 the country.

11 And I can't -- this needs to make sense now.
12 We've got to stop singing things that don't connect. These
13 licenses -- that is not in my license. It is the public's
14 license. I am just holding onto it. You all represent the
15 public. Don't represent me.

16 The public deserves to know what is expected of us
17 even if it is nothing. And I cannot say give me the
18 license, don't give me any minimum qualifications, and don't
19 charge me anything. Now, I can't connect that as a
20 reasonable position to take. So I am trying to get in the
21 middle. I mean, I am trying to say voluntary code real
22 important, minimum standards a way that gets the public
23 access to the airwaves. And we can move along in this.

24 Really, the great news is the digital future is so
25 exciting. I mean, things are not bad. Things are good.

1 Let's get this -- get everybody together and come up with a
2 reasonable way of defining our obligations and roll.

3 CHAIRMAN KENNARD: It sounds like a very
4 reasonable position to me. And with that, I would like to
5 invite anyone up to the microphones who would -- if anyone
6 has any questions for the panel. If not, unless there are
7 additional questions from the bench, I would like to thank
8 you all for what was a very, very robust discussion.

9 I appreciate -- I particularly appreciate the
10 testimony of the two broadcasters who came here today. I
11 know it is sometimes not easy to -- especially for you, Mr.
12 Goodman, to come forward and speak your mind like you did.
13 And I really appreciate your candor. And all the rest of
14 you did a fabulous job. Thank you all very, very much for
15 being here. So we are adjourned. Thank you.

16 (Whereupon, at 4:03 p.m. on Monday, October 16,
17 2000, the hearing in the above-entitled matter was
18 adjourned.)

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REPORTER' S CERTIFICATE

CASE TITLE: **En Banc Hearing on the Public Interest
Obligations of TV Broadcast Licensees**

HEARING DATE: **October 16, 2000**

LOCATION: **Washington, D. C.**

I hereby certify that the proceedings and evidence are contained fully and accurately on the tapes and notes reported by me at the hearing in the above case before the Federal Communications Commission.

Date: 10-16-00

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