

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

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

**JOINT COMMENTS OF
THE NATIONAL ASSOCIATION OF BROADCASTERS,
THE NATIONAL CABLE & TELECOMMUNICATIONS ASSOCIATION, AND
THE MOTION PICTURE ASSOCIATION OF AMERICA**

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The National Association of Broadcasters (“NAB”), the National Cable & Telecommunications Association (“NCTA”), and the Motion Picture Association of America (“MPAA”) (hereinafter “Joint Commenters”) hereby submit our comments in the above-captioned proceeding.¹

INTRODUCTION AND SUMMARY

The Joint Commenters welcome the opportunity to update the Commission about the current state of parental awareness and use of the TV Parental Guidelines (“Guidelines” or “TV ratings”) and the V-chip. The TV Parental Guidelines were developed over a decade ago by the television industry, in consultation with children’s and other advocacy groups, as a simple-to-use ratings system to help parents manage the TV viewing of their children. The Guidelines include six ratings categories (two for children’s programs and four for general audience programs) and five content descriptors for TV programming. Today, broadcast and cable networks include

¹ See *In the Matter of Implementation of the Child Safe Viewing Act; Examination of Parental Control Technologies for Video or Audio Programming*, Notice of Inquiry, MB Dkt. No. 09-26, FCC 09-14 (rel. Mar. 2, 2009) (“NOI” or “Notice”).

ratings for thousands of hours of TV programming every day. The ratings information is prominently displayed at the beginning of, and often after commercial breaks during, all rated programming, and is also embedded in the programming stream so that it can be used with the V-chip. Ratings information is also available in the TV listings of many newspapers, in other printed and online program listings, and on numerous web sites.

The television industry has invested substantial resources in educating parents about the TV Parental Guidelines and the V-chip. Most recently, in 2006, we launched a multi-year, \$340 million advertising campaign with the Ad Council and others to encourage parents to take a more active role in their children's television viewing and help educate parents about the Guidelines and the V-chip. Those education efforts, as well as efforts led by the Commission and other public and private entities, have been successful. *Indeed, the 2007 Kaiser Family Foundation study cited by the Commission in the NOI reflects that the overwhelming majority of parents are aware of the Guidelines and the V-chip, and the vast majority of parents using these tools find them to be helpful in managing their children's TV viewing.*

Some parties have suggested that the Guidelines and V-chip are ineffective because, in their view, these tools are not used by "enough" parents. In fact, a majority of parents report using the Guidelines to monitor their children's exposure to programming they deem inappropriate, and V-chip use has grown over the years. Moreover, parents today use a range of strategies to oversee their children's TV use, including, for example, setting rules about when their children can use TV and what channels they can watch, keeping the TV in a common area in the home so parents can monitor what their children are watching, and watching TV with their children. The TV Parental Guidelines and V-chip are highly useful tools that also are available to parents, as are a wide range of other parental control technological solutions such as those in

cable and satellite set-top boxes. A narrow focus on V-chip use (or the use of any other single tool) misses the larger picture – that *parents* believe they are successfully managing their children’s TV viewing with the tools and strategies they have on hand today. In fact, according to the same survey by the Kaiser Family Foundation, two-thirds of parents say they “closely monitor” their children’s media use, and most parents believe they do control what their children are watching on TV.

Of course, we are aware that any system can be improved, and we are continually trying to make the TV ratings system even easier and more effective for parents. As part of the development of the TV Parental Guidelines, the television industry established a Monitoring Board, comprised of experts from the TV industry and children’s advocacy groups, that responds to consumer questions and complaints about the Guidelines and works with companies to ensure that the Guidelines are applied accurately and consistently to TV programs. The TV Parental Guidelines Monitoring Board’s efforts have resulted in meaningful improvements in the application of TV ratings and are ongoing. We are also constantly exploring ways to increase parental awareness and understanding of the Guidelines.

As noted above, aside from the Guidelines and V-chip, there are a number of parental control technologies currently available and additional tools are coming to market for a variety of video platforms. The Commission can play an important role in encouraging the use and development of such technologies, but governmental intervention, in the form of a mandatory ratings system or technology mandates, would likely deter continued innovation and investment in new solutions and limit parental options for supervising their children’s TV viewing. A mandatory ratings system would also raise substantial First Amendment concerns.

I. THE TV PARENTAL GUIDELINES WERE DEVELOPED VOLUNTARILY BY THE TELEVISION INDUSTRY TO GIVE PARENTS THE TOOLS TO MAKE INFORMED DECISIONS ABOUT WHAT THEIR CHILDREN WATCH ON TV.

The NOI invites comment on parental empowerment tools that are currently available to consumers.² NCTA, NAB, and MPAA submit these joint comments to update the Commission with supplemental information on the TV Parental Guidelines developed more than a decade ago, as well as ongoing efforts by the industry to educate consumers about those Guidelines. As detailed below, the Guidelines are useful to parents in two distinct ways. First, ratings information is displayed visually onscreen with all rated programming, helping parents understand the content of programs whether or not the V-chip or any other parental control technology is used.³ Second, the ratings information is embedded in the program stream of the rated programming so it can be used with the V-chip parental controls built into TV sets.

A. History Of The TV Ratings System And V-Chip.

In the Telecommunications Act of 1996, Congress called upon the television industry to establish a voluntary system for rating television programming.⁴ Over the course of the next eighteen months, the industry -- working under the joint leadership of our three associations -- developed a set of guidelines that give parents more information about the content and age-appropriateness of TV programs. In developing these Guidelines, the industry met with more than fifty groups and individuals representing the medical, educational, children and parents advocacy, academic, and religious communities. We sought input on issues that concerned them

² NOI ¶ 10. *See* Child Safe Viewing Act of 2008, Pub. L. No. 110-452, 122 Stat. 5025, § 2(a)(3) (2008) (directing the Commission to examine “the existence, availability, and use of parental empowerment tools and initiatives already in the market”).

³ Ratings information is also available in the TV listings of many newspapers, in other printed and online program listings, and on numerous web sites.

⁴ *See* Telecommunications Act of 1996, Pub. L. No. 104-104, 110 Stat. 56, § 551(e) (1996); *see also* S. Conf. Rep. No. 104-230, at 195 (1996).

most about children and television as well as what should be included in a television ratings system. In addition, the industry conducted quantitative and qualitative research, including focus groups with parents across the country.

In December 1996, the television industry announced the creation of the TV Parental Guidelines, a voluntary, age-based system to provide parents with information about TV programs and help them make informed decisions about programs that are appropriate for their family's viewing.⁵

The Guidelines, modeled after the familiar movie ratings parents have known and valued for decades, are easily recognizable and simple to use. They include four categories for programs aimed at the general audience: TV-G (General Audience), TV-PG (Parental Guidance Suggested), TV-14 (Parents Strongly Cautioned - may be unsuitable for children under 14), and TV-MA (Mature Audience Only - may be unsuitable for children under 17). The Guidelines also contain two categories for children's programming: TV-Y (All Children) and TV-Y7 (Directed to Children aged 7 and older). These ratings identify programs designed *specifically for* children and were included based on input from children's advocacy groups. These groups expressed a need for specific ratings for children's programming, particularly for children under 7 years of age, who have difficulty distinguishing between reality and fantasy.

In conjunction with advocacy groups and policymakers, in 1997, the television industry supplemented the age-based ratings with specific information about the content of TV programs.⁶

⁵ The Guidelines are not intended to determine the content that may be included in any television program, or to evaluate the quality or social value of a television program.

⁶ See Joint Comments of NAB, NCTA, and MPAA, ET Dkt. No. 97-206, at 6-7 (filed Nov. 24, 1997) (detailing development of content descriptors).

We worked collaboratively with children’s and medical groups⁷ to enhance the information provided by the TV Parental Guidelines by adding five so-called content descriptors: “FV” for fantasy violence in children's programming; “V” for violence, “S” for sexual content, “D” for suggestive dialogue, and “L” for strong language in programming designed for the general audience.⁸

The television industry submitted the TV Parental Guidelines to the Commission in 1997.⁹ A number of prominent advocacy groups, including educational, medical, and children’s organizations and associations, endorsed the Guidelines.¹⁰ On March 12, 1998, the Commission issued an order finding that the TV Parental Guidelines satisfied Section 551(e) of the 1996 Act.¹¹ The Commission simultaneously adopted technical requirements for the V-chip.¹²

B. The TV Parental Guidelines Today.

The NOI asks whether broadcasters and other programmers are transmitting the ratings information, as they agreed to do in 1997.¹³ They are. Broadcast and cable networks include

⁷ The following groups joined NAB, NCTA, and MPAA in developing the revisions to the TV Parental Guidelines: American Medical Association, American Academy of Pediatrics, American Psychological Association, Center for Media Education, Children’s Defense Fund, Children Now, National Association of Elementary School Principals, National Education Association, and National PTA.

⁸ See TV Parental Guidelines Fact Sheet, attached hereto as Exhibit A, which provides more detailed descriptions of ratings categories and content descriptors.

⁹ See Letter from Jack Valenti (MPAA), Decker Anstrom (NCTA), and Eddie Fritts (NAB), to William Caton, FCC (filed Jan. 17, 1997) (initial submission detailing voluntary ratings system) (“Joint Submission”); Letter from Jack Valenti (MPAA), Decker Anstrom (NCTA), and Eddie Fritts (NAB), to William Caton, FCC, CS Dkt. No. 97-55 (filed Aug. 1, 1997) (“Supplemental Joint Submission”) (supplemental submission adding content descriptors and other modifications to the voluntary ratings system).

¹⁰ See Supplemental Joint Submission at Att. 2 (listing nine advocacy groups that had endorsed the Guidelines).

¹¹ See *Implementation of Section 551 of the Telecommunications Act of 1996, Video Programming Ratings*, Report and Order, 13 FCC Rcd. 8232 ¶¶ 18-19 (1998) (“*Ratings Order*”).

¹² See *Technical Requirements to Enable Blocking of Video Programming Based on Program Ratings, Implementation of Section 551(c), (d), and (e) of the Telecommunications Act of 1996*, Report and Order, 13 FCC Rcd. 11248 (1998) (“*V-chip Order*”).

¹³ NOI ¶ 18.

ratings for thousands of hours of TV programming every day. The Guidelines apply to most television programs, including those directed specifically to young children. Some programming, such as sports and news, is not rated.¹⁴ In addition, most home shopping and religious programming does not include a rating.

Program producers, broadcast and cable networks, broadcast stations, and syndicators expend significant resources reviewing and rating programs before they air, and have employees dedicated to ensuring that programs are appropriately rated. In many cases, these employees are involved in every stage of a program's development, from script to final production, or for a licensed program that has aired previously on another network, throughout the editing process.

TV ratings are applied on an episode by episode basis.¹⁵ This can naturally and appropriately result in individual shows within a series carrying different ratings. Likewise, individual shows may be edited differently based on the time of day they air on a particular network, which can also result in one show having different ratings reflecting the specific version that is being aired. Furthermore, movies and television series may be edited differently depending on whether they are carried on a premium cable, basic cable, or broadcast service. As a result, the movie or program may contain different content from service to service, and thus carry a different rating in line with the specific content in that version.

Some critics point to these differences as an indication of inconsistent application of ratings. In fact, this approach ensures the most informative and accurate rating of each specific program, alerts parents to any atypical content that may appear in an individual episode or series,

¹⁴ See *Ratings Order* ¶ 21 (finding it reasonable to exempt sports and news programming). Made-for-TV movies are rated using the Guidelines, as are theatrical movies that are modified for distribution on broadcast and cable networks. However, uncut theatrical movies, such as those carried on premium networks, carry the original MPAA movie rating in addition to supplemental content advisories provided by the network.

¹⁵ See TV Parental Guidelines Brochure, at http://www.tvguidelines.org/resources/TV_Parental_Guidelines_Brochure.pdf.

and allows them to block that episode based on its rating. This approach also reflects the flexibility and accuracy of the Guidelines.

Today, the program ratings and content descriptors are familiar to any TV viewer. The ratings icon and associated content descriptors appear for 15 seconds in the upper-left corner of the TV screen at the beginning of all rated programming. Over time, in response to concerns about the visibility of the onscreen ratings icon, programmers have increased the size and frequency of the icon. If the program is more than one hour in length, the icon will reappear at the beginning of the second hour. Many broadcast and cable networks also display the ratings icon after each commercial break to alert viewers of the TV rating throughout the program.

In addition to visually displaying the ratings information onscreen, cable networks and broadcast stations also encode the ratings information in their program streams so it can be “read” by television sets and other retail devices equipped with the V-chip.¹⁶ Consumers can block shows with certain ratings by following an easy-to-use onscreen menu of options available on their V-chip-equipped TV sets.¹⁷ Shows can be blocked according to the TV Parental Guidelines or, when applicable, the MPAA movie ratings. Using the Guidelines, parents can block shows according to the age-based categories (such as TV-14) or content labels (such as V for violence). The V-chip works in a hierarchical manner, so when a parent chooses to block programming with a certain age-based rating, all programming with ratings above that level are blocked automatically.¹⁸ The V-chip provides similar functionality for content descriptor

¹⁶ The TV Parental Guidelines were designed to work with the V-chip, which has been included in all TV sets that are 13 inches and larger built after January 1, 2000. *See V-chip Order*; *see also* 47 C.F.R. § 15.120(b).

¹⁷ Similar parental controls are available to cable and satellite customers. *See, e.g.*, NCTA Comments, MB Dkt. No. 09-26, at 8-11 (Apr. 16, 2009) (“NCTA Comments”).

¹⁸ For example, if a parent elects to block programming that is rated TV-PG, the V-chip will also block all programming that is rated TV-14 and TV-MA.

settings.¹⁹ This allows parents to easily block all categories of programming about which they are concerned.

Another key component of the ratings system is the TV Parental Guidelines Monitoring Board (“Monitoring Board” or “Board”). The Monitoring Board is composed of representatives from cable and broadcast networks, broadcast stations, and syndicators, as well as children’s advocacy groups, and works with interested parties – including content producers, distributors, and consumers – to ensure that there is uniformity and consistency in the application of the Guidelines to TV programming.²⁰

The Monitoring Board meets regularly to review complaints and, when there are widespread and verifiable complaints about a particular show’s rating, may decide whether that rating is appropriate.²¹ The Board also discusses other issues and concerns relevant to the ratings system. In recent years, the Board has redoubled its efforts to ensure ratings are applied consistently across channels. Industry standards and practices executives have had regular meetings and calls to review ratings issues. These conversations have resulted in a more common and consistent understanding of how ratings should be applied.

A concrete example of how these discussions have resulted in increased consistency is evident in the way content descriptors are applied. The Board’s ongoing conversations revealed that companies had been applying the content descriptor portion of the TV ratings differently.

¹⁹ While TV menus vary by manufacturer and brand, the V-chip gives parents the option to select among different levels in a particular content category, *e.g.*, moderate (or TV-PG) violence, and so forth in the “V” category. If the parent elects to block programming with moderate (TV-PG) violence, the V-chip will also block programming with more intense (TV-14 and TV-MA) violence.

²⁰ The Monitoring Board reviews and responds to customer complaints, which can be filed with the Monitoring Board via mail, phone, or e-mail.

²¹ The Board has received widespread and verifiable complaints about only a handful of programs since the creation of the Guidelines. It has investigated these complaints and, where necessary, worked with the producer or network to ensure the appropriate rating was included with that program.

Some companies were applying the descriptors to explain why a program was assigned a particular age-based rating. For example, if a program was rated TV-PG because it contained moderate levels of violence, those companies added a “V” content descriptor to the base rating. Other companies were applying the descriptors only to identify *the most intense* levels of content included in the age-based rating. These companies rated a program TV-PG, with no descriptor, if it contained moderate violence, language, sexual dialogue, and/or sexual activity, and added a content descriptor to the age-based rating only when the specific content was at the high end of the moderate range.

The Monitoring Board worked with the cable and broadcast industries to address this inconsistency, and the industries agreed to apply the content descriptors in a consistent manner to explain the age-based rating. This approach has resulted in the use of many more descriptors in programming today, and provides viewers with more information about the kind of content they should expect to see in a show because the reason for the rating is provided.

The television industry remains committed to applying the ratings in the most accurate, consistent way possible. We will continue our outreach efforts, through the Monitoring Board and other venues, to receive input on areas of concern from parents and interested groups.

II. PARENTS VIEW THE CURRENT RATINGS SYSTEM AND PARENTAL CONTROL TECHNOLOGIES AS EFFECTIVE TOOLS TO HELP THEM MANAGE TV VIEWING BY THEIR CHILDREN.

The television industry recognizes that increasing public awareness and educating parents about the TV Parental Guidelines and the V-chip are critical factors in encouraging their adoption and use. Over the last decade, we have invested substantial resources in coordinating

and implementing comprehensive advertising campaigns to support those education efforts.²² Our campaigns have succeeded in raising parental awareness about the Guidelines and the V-chip.

A. The Television Industry Has Made Substantial Investments In Educating Parents About The TV Ratings System And V-Chip.

Since the creation of the Guidelines and the introduction of the V-chip, the television industry has engaged in a wide variety of public awareness efforts. For example, the Joint Commenters, the Kaiser Family Foundation, and leading children's advocates joined together in 1999 to establish the V-chip Education Project, an initiative designed to provide parents with information about using the TV Parental Guidelines and V-chip effectively. Major components of the campaign included: a parents booklet describing how the Guidelines and V-chip work; a toll free number that parents could call to get a free copy of the booklet; and a web site where parents could download the booklet. The booklet continues to be available to parents today.²³ The campaign also featured a series of TV public service announcements ("PSAs") informing parents about the availability of TV sets equipped with the V-chip and additional information to help them use the V-chip and Guidelines.²⁴

²² As detailed in the separate NCTA comments filed today, the cable industry has also conducted independent education efforts. *See* NCTA Comments at 3-7.

²³ *See* Henry J. Kaiser Family Foundation, *A Parent's Guide to the TV Ratings and V-Chip*, at <http://www.kff.org/entmedia/1491-index.cfm> (last visited Apr. 12, 2009).

²⁴ In a January 2000 news release, the Commission commended the broadcast networks for their efforts to inform parents about the V-chip and program ratings system, expressly noting that PSAs were being run during the networks' prime-time programming. *See* FCC News Release, *FCC V-Chip Task Force Releases Updated Survey on the Encoding of Video Programming* (Jan. 11, 2000). The networks continued their public education efforts after 2000. In particular, they undertook a renewed public education campaign in 2004 to further inform parents, which, among other activities, involved creating and airing new PSAs publicizing the V-chip and ratings system, creating a V-chip reference card to be attached to television sets when sold, and utilizing the Web to provide relevant information. Many of these PSAs aired in prime time.

More recently, in 2006, NCTA, NAB, the broadcast networks, MPAA, the Consumer Electronics Association (“CEA”), and the satellite industry joined the Ad Council in launching a national multi-media “TV Boss” campaign to educate and inform families about how they can monitor and supervise their children’s television consumption.²⁵ The campaign included PSAs on television and radio, as well as advertisements in print publications and on the Web, highlighting parents’ ability to control TV programs that enter the home by whatever delivery method they have chosen.²⁶ Several of the most familiar TV PSAs showed parents talking to fictional TV characters and telling them that programs in which the characters appeared would be blocked because the content was not suitable for their children. Through a concerted and unprecedented industry-wide media effort, this “TV Boss” campaign received an extraordinary level of donated media, amassing more than \$340 million from its inception through December 2008.

The “TV Boss” campaign included other elements as well. For example, the consumer electronics (“CE”) industry made educational and instructional materials, including V-chip educational materials, available to parents at retail stores via in-store pamphlets, TV set displays, or equipment instruction manuals. In addition, the campaign included the development of a new web site – www.TheTVBoss.org – that provides information on managing media in the home via blocking technologies, program ratings, and other means. The web site includes detailed information about the TV ratings and V-chip as well as numerous links to additional resources

²⁵ See News Release, NCTA, NAB, MPAA, *et al.*, *Media and Entertainment Industries Unite in Unprecedented Effort To Help Parents Monitor Kids’ TV* (July 25, 2006), available at <http://www.ncta.com/ReleaseType/MediaRelease/3482.aspx>; see also News Release, NCTA, NAB, MPAA, *et al.*, *Industries Unite in Unprecedented Effort to Educate Parents That They Have The Tools To Control TV Programming In Their Home* (Jan. 19, 2006), available at <http://www.ncta.com/ReleaseType/MediaRelease/397.aspx>.

²⁶ Samples of print advertisements and a parent’s tip sheet from the TV Boss Campaign are attached hereto as Exhibit B. Exhibit B also includes a DVD with the TV PSAs from the campaign.

that provide helpful information to parents. Through January 2009, the web site had recorded almost one million total sessions, with over three million page views. The campaign also involved outreach to religious and parent's advocacy groups with information that could be redistributed to their congregations or members to further inform and educate them about the power that parents have to control TV programming in their homes.

There are also numerous resources available to parents on the Web and elsewhere to learn about the Guidelines and V-chip. The TV industry has established a TV Parental Guidelines web site that includes a "Frequently Asked Questions" page as well as a downloadable brochure on the Guidelines and V-chip.²⁷ Many networks also provide, or link to, ratings information on their web sites, and there are several other industry-supported web sites that provide ratings information to parents.²⁸

B. Education Campaigns Have Been Successful In Promoting Parental Awareness About, And Use Of, The TV Parental Guidelines And V-Chip.

The industry campaigns described above, as well as outreach efforts by the Commission and other entities, have *already* resulted in broad parental awareness of the TV ratings and the V-chip. The 1996 Act established a goal of "empowering" parents to manage the TV viewing of their children.²⁹ The survey data over the last decade reveal that Congress's goal has been achieved.

A 2007 report issued by the Kaiser Family Foundation found that an overwhelming majority of parents are aware of the TV Parental Guidelines. In fact, the Foundation found that 81 percent of parents have heard of the TV ratings, and more than half of all parents (53 percent)

²⁷ See <http://www.tvguidelines.org/>.

²⁸ See, e.g., <http://www.ce.org/AboutCEA/CEAInitiatives/3532.asp>; <http://www.parentalguide.org/>; <http://controlyourtv.org/>.

²⁹ See Telecommunications Act of 1996, § 551, "Parental Choice in Television Programming."

reported using the ratings system.³⁰ Almost 90 percent of those parents found them to be useful, including almost half who found them “very useful.”³¹

Likewise, parental awareness of the V-chip has grown over the last decade. The *2007 Kaiser Report* found that 70 percent of parents were aware of the V-chip, up from 63 percent two years earlier.³² The proportion of parents who have used the V-chip has also increased. Seven percent of parents used the V-chip in 2001.³³ That number had increased to 16 percent by 2006, and the “vast majority” of those parents (89 percent) said they found the V-chip to be “useful.” In fact, nearly three out of four parents (71 percent) who had tried the V-chip found it “very useful.”³⁴

C. The TV Parental Guidelines And The V-Chip Are Among The Many Effective Tools At Parents’ Disposal.

Despite these positive trends, some parties argue that the Guidelines and V-chip are ineffective because, in their view, these tools are not used by “enough” parents.³⁵ However, the effectiveness of the Guidelines and V-chip must be viewed within the broader context of the wide variety of tools available to parents to help manage their children’s TV viewing. While parents may opt to use other available tools for a variety of reasons, it does not mean that the Guidelines or V-chip are ineffective. Indeed, the survey data described above demonstrate that

³⁰ See The Henry J. Kaiser Foundation, *Parents, Children & Media: A Kaiser Family Foundation Survey*, at 8, 20 (June 2007) (“*2007 Kaiser Report*”).

³¹ See *id.* at 21.

³² See *id.* at 8; see also Luntz, Maslansky Strategic Research & Hart Research, *TV Watch Survey of Parents Topline*, at 5 (June 2007) (“*2007 TV Watch Survey*”) (finding that 69 percent of surveyed parents are aware of the V-chip), available at <http://www.televisionwatch.org/junepollresults.pdf>.

³³ See News Release, Kaiser Family Foundation, *Few Parents Use V-Chip to Block TV Sex and Violence* (July 20, 2001).

³⁴ See *2007 Kaiser Report* at 10 (noting that 71 percent found the V-chip “very useful” and an additional 18 percent found it “somewhat useful”).

³⁵ See, e.g., NOI ¶ 15 (citing to various studies “that show that the V-chip is not widely used”).

most parents *are* aware of the Guidelines and V-chip and most parents who use these tools *do* find them to be helpful.

Parents today use a range of strategies to oversee their children’s TV use, including, for example, setting rules about when their children can watch TV and what channels they can watch, keeping the TV in a common area in the home so parents can monitor what their children are watching, and watching TV with their children.³⁶ In fact, two-thirds of parents say that they “closely monitor” their children’s media use.³⁷

Other technological tools are also available to assist parents. Cable operators and other MVPDs typically include robust parental controls in the set-top boxes they make available to their customers. These additional controls enable parents to block programming based on a number of factors, including program ratings and content descriptors, as well as day and date, program title, and channel.³⁸

There are also a number of parental control solutions available from third-party sources. For example, the Family Safe Media web site sells a variety of tools to help parents, including time management devices³⁹ and set-top boxes that can block profanity and violence.⁴⁰ The Weemote is another family-friendly solution; it utilizes a remote control made for children that

³⁶ See *2007 Kaiser Report* at 8; see also *2007 TV Watch Survey* at 4, 8-9 (detailing how survey respondents monitor their children’s TV viewing).

³⁷ See *2007 Kaiser Report* at 7; see also *2007 TV Watch Survey* at 3 (noting that 73 percent of parents monitor what their children watch, including 87 percent of parents whose children are ages 0-10).

³⁸ For more information, see NCTA Comments at 8-11; see also *2007 Kaiser Report* at 10 (noting that 25 percent of parents say they have used parental controls provided through their cable or DBS provider).

³⁹ http://www.familysafemedia.com/tv_time_management_tools_-_par.html.

⁴⁰ http://www.familysafemedia.com/tv_guardian_summary.html.

has a handful of large buttons that can be programmed by parents to receive only certain preset channels.⁴¹

In addition, there are a number of other technological innovations that enable parents to customize the TV viewing experience for their families. For example, digital video recorders (“DVRs”) empower parents to ensure that their children watch only programming that the parents deem suitable, either through special services such as TiVo’s KidZone or through the general functionality of the technology.⁴² Also, most cable operators today offer video-on-demand (“VOD”) services that include libraries of content aimed exclusively at children and provide an easy-to-use resource for parents looking for age-appropriate content.

With respect to program ratings information, parents today have the ability to access information about TV shows and movies from a variety of independent sources. For example, Common Sense Media provides a user-friendly site that offers detailed reviews of movies, TV shows, web sites, and other content, as well as independent opinions about the suitability of any particular content for children of a certain age.⁴³ Likewise, Pause Parent Play provides ratings and content information to parents.⁴⁴

Within this broad range of options, the TV Parental Guidelines and V-chip are simply one of the many tools that are available to parents. Approximately 32 percent of U.S.

⁴¹ <http://www.weemote.com/>.

⁴² Adam Thierer, *Parental Controls & Online Protection: A Survey of Tools and Methods 3.1*, at 53 (2008) (quoting Sharon Miller Cindrich, *e-Parenting: Keeping Up With Your Tech-Savvy Kids* (New York: Random House Reference, 2007)).

⁴³ See Common Sense Media, at <http://www.commonsensemedia.org/>.

⁴⁴ See Pause Parent Play, at <http://www.pauseparentplay.org/>.

households have children,⁴⁵ and a subset of those households (*i.e.*, those with children aged 7 to 16) are most likely to use parental controls.⁴⁶ Some parents in these households elect to use the Guidelines and V-chip, while others do not. And, among parents who are aware of the V-chip but who have chosen not to use it, 50 percent report that an adult is usually nearby to monitor their children’s television viewing and 14 percent say they “trust their kids to make their own decisions.”⁴⁷ These data demonstrate that parents who use tools other than the V-chip make this choice for a variety of reasons other than a belief that the technology is ineffective, not useful, or too difficult or complicated to employ.

Indeed, most parents believe they have control over what their children are watching on TV.⁴⁸ The proportion of parents who are “very” concerned about their own children’s exposure to sex or violence on TV has declined steadily over the past nine years.⁴⁹ Of course, we are aware that many parents remain concerned about their children’s exposure to age-inappropriate content and that any parental control system can be improved. The TV industry works to make the TV Parental Guidelines easy to understand and use, and is constantly exploring ways to increase further parental awareness and understanding of the Guidelines. However, a narrow focus on V-chip use misses the larger story about how parents are managing their children’s TV

⁴⁵ See U.S. Census Bureau, *2008 Statistical Abstract of the United States*, Table No. 58 (noting that over 68 percent of U.S. households do not have any children under 18 years of age in residence), available at www.census.gov/compendia/tables/09s0058.pdf.

⁴⁶ See Adam Thierer, *Who Needs Parental Controls? Assessing the Relevant Market for Parental Control Technologies*, Progress & Freedom Foundation, at 6 (Feb. 2009).

⁴⁷ *2007 Kaiser Report* at 10.

⁴⁸ See News Release, Kaiser Family Foundation, *Parents Say They’re Getting Control of Their Children’s Exposure to Sex and Violence in the Media -- Even Online* (June 19, 2007).

⁴⁹ See *2007 Kaiser Report* at 4 (noting, among other things, that only one in five parents believe that their children are exposed to “a lot” of inappropriate content in the media they use).

viewing. In short, parents believe that they have resources and strategies available to control their children's use of TV, and that the Guidelines and V-chip are helpful tools in those efforts.

III. GOVERNMENT POLICIES SHOULD SUPPORT THE DEVELOPMENT OF VOLUNTARY TOOLS TO HELP PARENTS MONITOR AND CONTROL THEIR CHILDREN'S TV VIEWING.

The NOI also seeks comment on methods “to improve or expand V-chip technology”⁵⁰ and to encourage the development of advanced blocking technologies for television and cable services.⁵¹ The government can play an important role in encouraging the development of, and supporting the use of, such technologies. Congress and the Commission played a helpful role in the development of the TV Parental Guidelines and in promoting public awareness of the Guidelines and the V-chip.⁵² Governmental restraint in this area has also spurred the development of the innovative solutions described above. Clearly, there is a marketplace demand for parental control technology, and a broad array of companies is developing innovative products to meet that demand.

However, governmental intervention, in the form of a mandatory ratings system or technology mandates, would likely chill innovation and investment in new solutions and limit parental options for managing their children's TV viewing. Any attempted governmental imposition of an alternative ratings system or technology would likely engender consumer

⁵⁰ NOI ¶ 10.

⁵¹ *Id.* ¶¶ 25-26.

⁵² The Commission's V-chip Task played an important role in overseeing the implementation of the V-chip and in spearheading early efforts to educate parents about the V-chip and TV Parental Guidelines. *See* <http://www.fcc.gov/vchip/> (cataloguing work of V-chip Task Force). Likewise, the Commission's “Parent's Place” web page includes detailed information on parental controls, program ratings information, and other tools parents can use to manage their children's TV viewing. *See* <http://www.fcc.gov/parents/>. Acting Chairman Copps, Commissioners and other governmental leaders can and have used their offices as a bully pulpit to help educate parents about these tools. *See, e.g.,* Remarks of Commissioner Copps, Kaiser Family Foundation, KidVid Summit, Washington, D.C. (June 7, 2006).

confusion and also undermine years of investment in the development and promotion of the current TV Guidelines and V-chip.

A. The Government Should Not Mandate Changes To The TV Parental Guidelines.

Some critics of the Guidelines suggest that the current ratings categories and content descriptors are not being applied accurately and that government regulation can somehow rectify this. As noted, the Monitoring Board works with programmers to promote uniformity and consistency in applying the Guidelines to TV programs, and this has already led to meaningful improvements. However, the ratings assigned to television programming inherently involve subjective judgments by individual programmers. As a result, there will inevitably be disagreements as to how specific programs are rated under any ratings system. Changing the details or features of a ratings system cannot remove all subjectivity from the ratings process, and would be highly unlikely to achieve the desired result.⁵³

Mandating an alternative ratings system -- either in place of or in addition to the current TV Parental Guidelines -- would present its own set of legal, administrative, logistical, and technical challenges. Any proposal to mandate the use of a particular ratings system would violate the First Amendment rights of programmers and distributors.⁵⁴ Congress was sensitive to these First Amendment considerations in crafting the parental control provisions of the 1996 Act. It specifically gave the television industry an opportunity to establish an acceptable voluntary system for rating programs, and further indicated that, to the extent those efforts did not succeed and the Commission had to develop its own ratings system, such system should be strictly

⁵³ See NAB Reply, MB Dkt. No. 04-261, at 13-14 (filed Nov. 15, 2004).

⁵⁴ Joint Reply Comments of NAB, NCTA, and MPAA, ET Dkt No 97-206, at 5 (filed Dec. 8, 1997) (explaining that a mandatory system would constitute compelled speech subject to strict scrutiny).

voluntary.⁵⁵ Congress also expressly found that providing parents with information about the content of video programming and the technological tools to block programming was a “nonintrusive and narrowly tailored means” of promoting the “governmental interest in empowering parents.”⁵⁶ Any recommendations that the Commission may consider in its report to Congress should follow these principles.⁵⁷

In addition to these constitutional hurdles, there would be substantial administrative and technical problems with such an approach. For example, any entity tasked with rating specific programs would have to rate thousands of hours of programming from dozens of broadcast and cable networks every day, and all in advance of airing. Further, although some manufacturers have begun building TV sets with the capability of implementing flexible ratings,⁵⁸ there is an embedded base of more than 150 million V-chip-equipped television sets that can only respond to the TV Parental Guidelines and the MPAA movie ratings and cannot be made to work with a different ratings system. To the extent there is concern about the use of the V-chip, adding more ratings to programs or making existing technology like the V-chip more difficult to use, will likely create consumer confusion and dampen, rather than increase, interest in these tools.

⁵⁵ See Telecommunications Act of 1996 §§ 551(b) & (e); see also S. Conf. Rep. No. 104-230, at 195 (1996) (“nothing in subsection (b)(1) authorizes, and the conferees do not intend that, the Commission require the adoption of the recommended rating system nor that any particular program be rated”).

⁵⁶ Telecommunications Act of 1996 § 551(a)(8) & (9).

⁵⁷ We also note that, aside from these First Amendment considerations, the Commission has no statutory authority to mandate the use of the existing or any new program ratings system. See NAB Reply, MB Dkt. No. 04-261, at 11-13 (filed Nov. 15, 2004) (explaining that, under the 1996 Act, the Commission cannot *mandate* the use of, or changes to, a *voluntary* ratings system).

⁵⁸ See CEA Ex Parte Letter, MB Dkt. No. 03-15 (filed Aug. 25, 2008).

B. A Cross-Platform Technology Mandate Would Chill Innovation And Harm Consumers.

The NOI asks about blocking technologies that might work across multiple platforms.⁵⁹ As an initial matter, polling suggests that parents are comfortable with having different solutions for different platforms and media,⁶⁰ so there does not appear to be a demand for a cross-platform solution. Even if such demand did exist, the reality is that there are significant differences between and among video distribution platforms that make a single solution impractical and unworkable for the foreseeable future. For example, while consumers can watch video content on TV and via the Internet, there are substantial differences between the two platforms involving, among other things, the type, amount, and source of video content; the mode of content delivery; and the design of the networks. Moreover, parental control technologies for the Internet must address substantially more types of content that parents may deem objectionable than just video. In light of these substantial and intrinsic differences, certain parental control technologies have evolved that are optimized for use in filtering Internet content,⁶¹ while different technologies are prevalent for use with TV content.

Another reason that mandating a single blocking technology across multiple platforms is unworkable today is the inconsistency of interfaces and protocols used in various consumer

⁵⁹ NOI ¶ 44.

⁶⁰ See *2004 Kaiser Report* at 13 (noting that parents “don’t support creating a single ratings system that would replace the myriad of ratings now used for movies, music, TV and video games”). Recent surveys also indicate that parents do not support more government regulation over parental controls. See, e.g., *2007 TV Watch Survey* at 9 (finding that 60 percent of parents *disagreed* with the following statement: “The current parental controls and ratings systems have failed. It’s time for government to step in and do more.”).

⁶¹ For example, Google, Yahoo!, and Microsoft each offer “safe search” tools that allow parents to limit the results that are returned by the search engine. See, e.g., Google’s Tips for Online Safety, at <http://www.google.com/intl/en/landing/familysafety/>. Another example is the KidZui web browser. <http://www.kidzui.com/>. KidZui allows parents to monitor and manage what content their children can access online. While these types of blocking tools work with “pull technologies” such as the Internet where content is requested by the user, they are not well-suited for “push technologies” such as broadcast where content is continuously delivered to the user.

electronics devices for accessing content on such platforms. CE device interfaces currently vary significantly among distribution platforms and are not built to handle a single blocking technology. Any consideration of a common blocking technology across platforms must take into account the enormous number of legacy devices that could not respond to any common blocking trigger even if one could be developed.

If the government were to mandate a single technical solution across different video platforms, it would likely chill investment and innovation in the solutions that are best-suited for specific platforms, force industries to adopt the lowest common technology that would work on all platforms, and ultimately limit options for parents.⁶² In other proceedings, the Commission has avoided taking steps that would effectively “pick winners or losers,” instead recognizing that its most effective role is “to ensure that the marketplace is conducive to investment, innovation, and meeting the needs of consumers.”⁶³ The Commission should take a similar pro-innovation approach in its report to Congress in this proceeding.

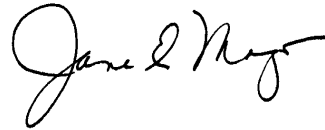
⁶² To cite but one example of the consumer harms associated with technology mandates, Japan spent 20 years of effort and billions of dollars on a government-mandated, *analog*-based HDTV standard -- only to wind up being quickly surpassed in the race toward HDTV by the United States, whose market-based approach to standards and innovation resulted in the development of a *digital*-based HDTV standard that became the cornerstone of the global digital technology revolution. The Commission concluded in that context that the avoidance of technology mandates would: (1) “result in greater choice and diversity of equipment”; (2) “allow computer equipment and software firms more opportunity to compete by promoting interoperability”; (3) “result in greater consumer benefits by allowing an increase in the availability of new products and services”; and (4) “avoid[] the risk of a mistaken government intervention in the market[.]” *Advanced Television Systems and Their Impact Upon the Existing Television Broadcast Service*, Fourth Report and Order, 11 FCC Rcd 17771, ¶¶ 39, 42 (1996).

⁶³ *Deployment of Wireline Services Offering Advanced Telecommunications Capability*, Memorandum Opinion & Order & Notice of Proposed Rulemaking, 13 FCC Rcd. 24011 ¶ 2 (1998). See also *Implementation of Section 304 of the Telecommunications Act of 1996: Commercial Availability of Navigation Devices*, Second Report and Order, 20 FCC Rcd. 6794 ¶ 30 (2005) (“It is not our intent to force cable operators to develop and deploy new products and services in tandem with consumer electronics manufacturers. Cable operators are free to innovate and introduce new products and services without regard to whether consumer electronics manufacturers are positioned to deploy substantially similar products and services.”); *Deployment of Wireline Services Offering Advanced Telecommunications Capability*, Fourth Report and Order, 16 FCC Rcd. 15435 ¶ 7 (2001) (“Indeed, we have previously recognized that, in adopting the 1996 Act, Congress consciously did not try to pick winners or losers, or favor one technology over another.”).

CONCLUSION

For the foregoing reasons, the Joint Commenters request that the Commission issue a report in this proceeding consistent with these comments.

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EXHIBIT A

UNDERSTANDING THE TV RATINGS

Audience: indicates the audience for which a television program is appropriate. →

Content Label: indicates a show may contain violence, sex, adult language, or suggestive dialogue. →



The Content Labels

TV Parental Guidelines may have one or more letters added to the basic rating to let parents know when a show may contain violence, sex, adult language, or suggestive dialogue.

- D** – suggestive dialogue (usually means talks about sex)
- L** – coarse or crude language
- S** – sexual situations
- V** – violence
- FV** – fantasy violence (children’s programming only)



All Children

This program is designed to be appropriate for all children. Whether animated or live-action, the themes and elements in this program are specifically designed for a very young audience, including children from ages 2–6. This program is not expected to frighten younger children.



Directed to Older Children

This program is designed for children age 7 and above. It may be more appropriate for children who have acquired the developmental skills needed to distinguish between make-believe and reality. Themes and elements in this program may include mild fantasy violence or comedic violence, or may frighten children under the age of 7. Therefore, parents may wish to consider the suitability of this program for their very young children.



Directed to Older Children – Fantasy Violence

For those programs where fantasy violence may be more intense or more combative than other programs in this category, such programs will be designated TV-Y7-FV.



General Audience

Most parents would find this program suitable for all ages. Although this rating does not signify a program designed specifically for children, most parents may let younger children watch this program unattended. It contains little or no violence, no strong language and little or no sexual dialogue or situations.



Parental Guidance Suggested

This program contains material that parents may find unsuitable for younger children. Many parents may want to watch it with their younger children. The theme itself may call for parental guidance and/or the program may contain one or more of the following: some suggestive dialogue (D), infrequent coarse language (L), some sexual situations (S), or moderate violence (V).



Parents Strongly Cautioned

This program contains some material that many parents would find unsuitable for children under 14 years of age. Parents are strongly urged to exercise greater care in monitoring this program and are cautioned against letting children under the age of 14 watch unattended. This program may contain one or more of the following: intensely suggestive dialogue (D), strong coarse language (L), intense sexual situations (S), or intense violence (V).



Mature Audience Only

This program is specifically designed to be viewed by adults and therefore may be unsuitable for children under 17. This program may contain one or more of the following: crude indecent language (L), explicit sexual activity (S), or graphic violence (V).

EXHIBIT B



BE THE BOSS OF WHAT YOUR KIDS WATCH

Parental blocking controls not only prevent your kids from viewing mature content, but also allow you to decide what programs they can watch. Parental controls are available through your TV, cable or satellite provider.

Learn more at
theTVboss.org





BE THE BOSS OF WHAT YOUR KIDS WATCH

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IF YOU DON'T WANT YOUR KIDS TO WATCH IT, BLOCK IT.
Parental blocking controls can prevent your kids from viewing mature content you don't want them to see. They're available through your TV, cable or satellite provider.

Be the boss of what your
kids watch. Find out how at
theTVboss.org



Helpful tips for Parents

- 1. Can't be with your child all the time?**
Use parental controls to block unwanted programs with your TV, cable box, or satellite.
- 2. Be in the know.**
Know the Ratings and find shows suitable for your child.
- 3. Make a plan.**
Develop a media plan for your family and establish media guidelines with kids.
- 4. Create a television library.**
Record programs that your children can view at any time during the day.
- 5. Be a role model.**
Set a good example for your children!
- 6. Power down!**
End a long day with a fun program the whole family will enjoy.
- 7. Get them involved!**
Have your child help you select his or her TV shows.
- 8. Quid pro quo**
Talk to your child about your opinions and beliefs, and listen to his or hers.
- 9. Guess what I learned on TV?**
Ask questions and share answers to this conversation starter during meals.
- 10. Record it.**
Use the VCR or digital video recorder and watch your shows when your child is asleep.

For more information visit:
TheTVBoss.org

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