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Before the: FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554

In the Matter of:

*Second Periodic Review of the
Commission's Rules and Policies
Affecting the Conversion
To Digital Television*

*MB Docket No. 03-15
RM 9832*

Ms. Marlene H. Dortch
Secretary
Federal Communications Commission
445 12th Street NW
Washington, D.C. 20554

Dear Ms. Dortch:

I am submitting these comments regarding the Commission's Rules and Policies Affecting the Conversion to Digital Television, specifically as they affect the ongoing implementation of the v-chip legislation. My background in this area is as author of numerous publications on the topic of media ratings, including *Media Ratings: Design, Use and Consequences* (Mediascope, 1996), and *Rating Sex and Violence in the Media: Media Ratings and Proposal for Reform* (Kaiser Family Foundation, 2002). I was also the project director of the *National Television Violence Study*, conducted by the Universities of California, Texas, North Carolina and Wisconsin, and funded by the National Cable Television Association; a major element of that project was a study of the TV Parental Guidelines system.

The conversion from analog to digital television provides a one-time opportunity to ensure the ongoing usefulness and flexibility of the v-chip. For purposes relevant to this discussion, there are two types of v-chip technology: "open" and "closed." A "closed" v-chip system can block programs only according to a fixed number of rating systems. For example, most current v-chip technology in television sets can only interpret and use two rating systems to block TV shows: the TV Parental Guidelines and the MPAA rating system.

Open v-chip technology--currently available in both analog and digital TV sets manufactured by Sharp, Hitachi, and Pioneer--is capable of interpreting a larger range of rating systems, and can also adapt to changes to existing rating systems. This open v-chip capability can allow television programmers, by transmitting new information electronically, to re-program the v-chips in those TV sets to accept new rating systems, or changes to existing ones. This re-programming of the v-chip can also reconfigure the V-chip blocking technology screen that the television owner then uses to program their television sets. The consumer can then block programs according to the new or revised rating system.

Open v-chip technology is preferable because as times, standards and technologies change, the need for reform of media rating systems associated with the v-chip will inevitably arise. For example, since its inception in 1967, the movie rating system has eliminated the X rating, added the PG-13 and NC-17 ratings, and has begun to include ratings reasons in their advertisements. Even in the short life of the TV Parental Guidelines, the system has been reformed to introduce the V, S, and L descriptor categories. Further, as media converge, there will likely be new reasons for rating reform. There is also the proposal for a universal rating system across media, implementation of which would depend on flexibility in the TV rating system.

From a public policy standpoint, the fundamental goal should be that v-chip technology that is implemented now will have maximum flexibility in the future. As someone who has studied the history and evolution of media rating systems across countries and over time, I note that advocacy efforts for changes to such systems waxes and wanes with the times. Such efforts often arise from pivotal cultural events, such as the shootings at Columbine High School in April 1999, that focus public attention on the effects of media, particularly on the young. Given current world events, it is unlikely that there will be a groundswell of efforts in the near term to change the current TV rating system. The concern I am expressing here is therefore about changes to the TV ratings that might be proposed five or ten years from now. By that time, digital TV will have become the norm rather than the exception. If an open v-chip system is implemented now, ratings reform will be possible then.

Open v-chip technology has been available to manufacturers since the inception of the v-chip. The Federal Communications Commission, in its initial ruling regarding the implementation of V-Chip technology, "encouraged" TV manufacturers to adopt open v-Chip technology, but did not require it. (Federal Communications Commission, 1998)

The last time media ratings reform was an issue was in the Summer of 2001. At that time, a coalition of public health organizations, leading media researchers, and children's advocacy organizations sent a letter to Congressional leaders proposing changes to existing media rating systems. The coalition included the American Medical Association, the American Psychological Association, Children Now, and the National Institute on Media and the Family (which coordinated the effort). In response, television industry leaders argued that the television rating system's links to extant v-chip blocking technology made adoption of a universal system unfeasible. As MPAA President Jack Valenti stated in testimony before Congress, "(t)he V-Chip circuitry in the TV sets is fastened irretrievably to the current TV rating symbols. If you change those symbols, you instantly destroy the V-Chip because the TV set is incapable of adapting to new symbols." (Valenti, 2001a: 4) National Cable and Telecommunications Association President Robert Sachs and National Association of Broadcasters President Edward Fritts similarly argued in a joint public statement that changes to the rating system would "obsolete the millions of television sets that have been sold equipped with V-Chip." (Sachs and Fritts, 2001: 2)

It is unknown to me the degree to which analog and digital TV sets manufactured at that time had open v-chip technology. (It is also unclear as to the percentage to date of televisions manufactured with open vs. closed v-chips.) However, the assumption of the industry leader's public statements and testimony before Congress in 2001 was that the v-chip was for all practical purposes a closed system. Accepting that assumption and claim, public policy organizations and members of Congress who supported the idea of the creation of a universal rating system across media withdrew their efforts on the grounds of the technological infeasibility of such a project.

The real issue now is to ensure that this kind of unclarity does not continue. One of the axioms of social science is that the best predictor of future behavior is past behavior. If one accepts that

axiom, one would not feel assured that if changes were proposed to the TV rating system five or ten years from now the policy outcome would be any different from that which occurred in 2001 if the FCC once again “encouraged” manufacturers to install open v-chip technology in digital sets but did not require them to do so.

I understand that, as a result of this issue coming to light within recent months, the Advanced Television Systems Committee has revised its Standard for ATSC compliant transport streams, to include the possibility of changes to the TV rating system, as follows: “A future extension or replacement of the content advisory system for the US is possible by assignment of a new, different rating region code and creation of new content for an RRT.” (Advanced Television Systems Committee, 2003: 10, FN 2) [Earlier proposed language was as follows: "For regions (such as the US) where the definition of the rating system is unchangeable, transmission of that region's RRT is not required and is not recommended."] If implemented as adopted, that would solve the transmission portion of the problem.

However, regardless of standards set by the Advanced Television Systems Committee and implemented by broadcasters, if individual manufacturers do not install open v-chip technology in digital television receivers, then the practical “openness” of the v-chip becomes meaningless. For the open v-chip concept to have meaning, all televisions need to be equipped with open v-chips. Experience has shown that “encouraging, ” but not requiring, the industry to implement open v-chip technology only results in a situation that makes reform of the TV rating system impossible, since not all television receivers are be able to accommodate such changes.

To ensure the flexibility of the TV rating system, the FCC should mandate that manufacturers include open v-chip technology in all television sets. Such action would be sound, forward-thinking public policy, since today only about one percent of TV sets in the United States are digital (Ahrens, 2002), while ten years from today it is probable that the large majority of TV sets will be digital. Without an open v-chip mandate by the FCC, it is likely that the practical potential for future reforms to the television rating system will be permanently foreclosed.

Thank you very much for your consideration of these comments. I am happy to respond to to questions and offer further comment on this matter. I can be reached at federman@creative-communication.net, or at the address and phone number above.

Sincerely,

Joel Federman

Joel Federman, Ph.D.

References

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