

**Civil Rights
Forum**

on
communications
policy



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Digital

● Campaign for Better TV

We have, this year, a real opportunity to change television, and thus America, for the better. It is the first such opportunity in over sixty years, and it will not last long. With the gift of an additional 70 billions dollars worth of public airwaves to existing broadcasters for digital television, the Federal Communications Commission must make new rules regarding the public interest obligations of broadcasters. Finally, the public will have an opportunity to say what the broadcasters should give back. We must make the most of this moment before television makes the transition to digital and becomes an even more powerful force in American society. Thus, we begin a **Campaign for Better TV**.

The relationship between broadcasters and citizens has changed dramatically since the 1934 Communications Act: Broadcasters were once required to ascertain community needs. They once adhered to a Fairness Doctrine. Licenses were for two years. Competitive hearings were held to determine which prospective licensee was the best qualified to serve the local community. The number of stations one entity could control was far more limited than it is today—as was the percentage of the national audience one owner could reach.

It is also true that other sources of programming did not exist when the regulations for the broadcast industry were first negotiated. Internet, cable, and direct broadcast satellite television now compete for the broadcast television audience, even as they extend the reach of broadcast television. Television executives understandably consider the future with caution. But the sky is not falling. Indeed, despite a decreasing share of the audience, broadcasters' advertising dollars are increasing. And in most instances the broadcasters are only competing with another division of their parent company.

Just as television did not herald the death of motion pictures, neither will the Internet and other program sources replace television. It is more likely that new communications technologies will *increase* the power of television: The reach of the local TV signal is extended. Old programs have new life. New programs can be repeated at different times. Pay-per-view events will be broadcast. Interactivity will allow broadcasters to capture more information about viewer use and more effectively target advertisements. Many predict that the TV and personal computers convergence will create a rosy future for broadcasters, particularly given their exclusive license to the most valuable parts of the public airwaves.

The old deal struck in 1934 was that broadcasters get the use of public airwaves for free and in exchange they must serve the public interest of their local communities. That old deal has eroded. A new deal, both reasonable and enforceable, must be made in exchange for new

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airwaves, to protect and advance the public good. The hallmarks of that deal should be fair representation of viewpoints, respect for children and families, recognition of workers' rights, and accountability to local communities. Simply put—in exchange for the use of the public airwaves broadcasters should serve the public interest.

We invite you to join millions of other Americans in a **Campaign for Better TV**. We are urging the government to act on behalf of viewers as we move into the digital age. Here are our recommendations:

1. **Educational Programs and Services.** Digital television's ability to provide rich pictures and many layers of information suggests a unique opportunity for educational programs. Every television station that uses the public airwaves should be required to set aside a minimum of seven hours each week to provide quality educational programs or significant educational services (such as data transmission for schools) to students of all ages. The nation's future strength will depend upon the access of all members of our society to educational resources, and no means of communication is as ubiquitous or as effective an educator as television.
2. **Limits on Commercials During Children's Programs.** Children should not be bombarded with commercial advertisements or with advertising disguised as entertainment or educational programs. We recommend that digital broadcasters be limited to no more than four commercials, no more than sixty seconds long, per hour during children's programs.
3. **Public Affairs and Political Programming.** Too many vital issues and perspectives of importance to the nation remain unexpressed and unexamined. Digital broadcasters should be required to use the new power of digital transmission to expand the number of perspectives expressed over the public airwaves. We recommend one hour of public affairs programming every day per channel with at least an equal emphasis on local issues and needs, including free and fair political discussion. Such programming should air in visible time periods during the day and evening. News shows should not be used to satisfy this public affairs programming requirement.
4. **Public Service Announcements.** Digital broadcasters should provide one public service announcement for every four commercials, with at least equal emphasis placed on independent and locally produced PSAs addressing a community's local needs. PSAs should run in all day parts, including in prime time and at other times of peak viewing. PSAs should not be a substitute for in-depth public affairs programming.

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5. **A Content-Based Ratings System.** We recommend that digital broadcasters be required to provide viewers with a ratings system about the content of programs. Through the increased information capability of digital technology the present ratings system can be substantially improved upon. Broadcasters should provide the public with much more information, from a variety of independent sources, about the nature (such as violent or sexual content) of the programs being broadcast, as they are being broadcast. This should enable parents to screen out programs they do not want in their homes.
6. **Support for Public Service Media.** In return for their use of the public spectrum broadcasters should be required to make a ten percent contribution of their gross revenue to pay into state and national trusts to support noncommercial local and national public service media. In addition, broadcasters should be required to set aside ten percent of their gross revenue to satisfy their public interest programming obligations.
7. **Channel Space for Public Service Media.** Digital broadcasters who multiplex should be required to set aside channel space for noncommercial media. We also support those recommendations which call for a reservation of noncommercial channel space dedicated to public service, once broadcasters are required to return spectrum now used for analog broadcasting.
8. **Community Outreach.** Digital stations should be required to develop a method for determining a community's needs and interests. This process of reaching out and involving the community should serve as the station's road map for addressing these needs through news, public affairs, children's and other local programming, and public service announcements. Public input should be invited on a regular basis through postal and electronic mail services as well as broadcast announcements. The call for requests for public input should be accessible to the disabled. The stations should report to the public quarterly during the year on their findings.
9. **Accountability.** Digital broadcasters should disclose their public interest programming and activities on a quarterly basis, matched against the ascertained community needs and interests. This should be done using standardized, easy to complete forms sensitive to administrative burdens and easily understood by the public.

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10. **Reporting on Diversity Efforts.** Whether it is in programming, political discourse, hiring, promotion, or business opportunities within the industry, digital broadcasters must make an effort to reflect the nation's diversity. We recommend that broadcasters seize the opportunities inherent in digital television technology to support these goals and to report quarterly to the public on their efforts. Serving diverse interests within a community is both good business and good public policy.
11. **Closed Captioning and Descriptive Services.** A digital broadcast station should provide closed captioning and descriptive services for the blind of PSAs, public affairs programming, and political programming. Captioning and descriptions in these areas should be phased in over the first 4 years of a station's digital broadcasts, but should be completed no later than 2006.
12. **Privacy protection.** Digital television, particularly when combined with telephone and cable technologies, creates many opportunities for broadcasters to learn about consumer choice and preference, and to cater to those preferences through targeted programming and commercials. Consumers should have the power to prevent the collection and sale of information about their personal program or product choices.
13. **Rate protection.** Digital television will provide broadcasters with the ability to generate scrambled pay-per-view programs, in much the same way that cable can do today. Consumers should be protected from excessive rates. The Federal Communications Commission should have the power to regulate the rates charged by broadcasters for pay-per-view programs.

American Academy of Pediatrics
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Communications Workers of America
Consumer Federation of America
Easter Seals
Coalition of Citizens with Disabilities

Interfaith Broadcasting Commission
NAACP
National Council of Churches
National Institute for Media and the Family
National Organization for Women
Project on Media Ownership

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● Television Basics

How do TV programs get to your home? In a large majority — sixty percent—of American homes today television is received by way of a twisted copper cable. But even cable stations get their local television signals the way the rest of us receive television, by way of the public airwaves.

The airwaves, the electromagnetic spectrum, are public property, like the rivers and the air. Because only one broadcaster can use a spectrum frequency without interfering with another, the airwaves are considered scarce. Because of this scarcity, the federal government gives licenses to local television broadcasters to use the public airwaves to transmit a signal and prohibits interference by others.

Who determines what programs get on television? In exchange for the free public license to broadcast a local signal, the local television station owner is obligated to act as a trustee, a sort of protector, of public property. The local television broadcaster is responsible to determine which programs will best meet the obligation to justify his public license. One obligation is be financially responsible, but there is also an obligation to serve the local citizens. But to say who is responsible unfortunately does not say who determines what programs get on television. Many local television stations are directed by large group owners to take satellite signals from the networks (Disney/ABC, GE/NBC, Westinghouse/CBS, Fox, et cetera) and a few programs from large production houses (such as Oprah or Jeopardy). Sometimes the large group owners, the networks, and the large production houses are one and the same. And though these networks and production houses determine what programs get on television, unlike the local station, they have no obligation to the local citizen/viewer.

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● The Power of Television

Television is one of the single biggest influences on American culture. Ninety-eight percent of American households have one television; sixty-seven percent have two or more. According to the National Association of Broadcasters, the average American watches nearly nine hours of television every day. The average American child spends more time in front of the television set than any other activity of their waking lives.

Americans rely upon television to keep informed about local, national, and international events, more than any other source of information. Television news, therefore, is the most powerful factor in determining what issues we debate in our communities and what we hold our political representatives responsible for. Neither tragedy nor triumph register with most Americans, if they are not reported on television.

But how news shows cover issues and politicians is not the only influence TV has over our political life. Television is the single reason why our political campaigns cost so much money.

Television also has a powerful impact on our families and our children. Families rely upon television as the principal source of entertainment. Parents rely upon television as a distraction to their children. Indeed, in many homes television is a child's first window to the larger world. Television can be a positive educational tool, or a value-destroying influence.

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● Here Comes Digital TV

In November of 1998, television stations in the nation's largest cities began to transmit a second signal. Instead of sending out a regular television broadcast, this signal sent out information in the digital language of computers. Thus, television began the leap to digital television (DTV). As a result of the 1996 Telecommunications Act, existing broadcasters were given an additional 6 megahertz of the public airwaves. Between now and 2003 (and perhaps beyond), each local television station will begin using this second allocation of public space. And like the first allocation of public spectrum, they got this public space absolutely free of charge.

The transition to DTV is sometimes compared to other technological leaps: such as the introduction of motion pictures in a world once dominated by photographs and paintings, or like the switch from black and white to color TV. But the transition to DTV is more like the transforming appearance of TV into a world that knew only radio. As TV combined radio and film, DTV combines the compelling power of television with the potential interactivity and information access of personal computers. For this very reason, DTV represents not only the single biggest technological leap television viewers have experienced in decades, but a change with vast social and economic consequences.

To understand the potential impact of DTV, it may first be useful to recognize the impact of traditional TV on society.

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● The Potential Benefits of Digital Television

DTV's most famous promise is the sharper, motion picture quality image it offers. But there is another, perhaps more important benefit of DTV. Because DTV will communicate in the digital language of computers, television stations will be able to transmit far more information than traditional TV. This means broadcasters can use the same amount of public spectrum to transmit five or more channels. They can also send additional information along with the picture (such as stock quotes, or closed captioning, or the price of products shown on the screen).

In addition, when combined with a two-way telephone service, DTV will be interactive like computers. This marriage of the TV set and personal computer into a single home appliance will result in potentially powerful educational opportunities, inspiring entertainment, and improvements to community life and democracy.

DTV will make it possible for a child in West Virginia to talk to an astronaut aboard a space station. It could allow doctors to make house calls even from a medical center many miles away. If you are watching a nature program, you can request additional information about the subject, while the program continues on your screen. If a local news story about a political campaign was too brief for your satisfaction, you could order up a more in-depth report and perhaps talk with the candidate. If you hear about a local group doing good work in your community, you could click a button to find out how to contribute to the cause or volunteer.

Your DTV could create the potential for not only a brighter window on the world, it could allow you to interact with it.

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● The Dangers of DTV

Like most possibilities, DTV will also have its perils. It could bring even more of the things most of us don't like about TV and the Internet. It could create another opportunity for an invasion into your privacy. And it could be used to limit the amount of good TV entertainment available for free.

Through digital technology, marketers will be able to collect information about you, or your child. Indeed, they will have an incentive to collect that information, because they can sell it to others and use it to target commercial advertisements to your family. Marketers currently track your movements when you visit Web sites, or purchase products over the Internet. Thanks to convergence, marketers will track not only this activity but which programs you watch, when you watch, and how often you watch. When DTV arrives, these commercials will coax you (and especially your children) to ORDER NOW while the commercial is on the screen. These messages, furthermore, will be targeted not only to individual viewers and households, but to individual TV sets within a household.

Enhanced information about viewer preferences will also allow DTV broadcasters to learn which programs you most highly value, and which programs they might be able to put on pay-per-view. And, unless the rules change, there will be no ability of the FCC to limit the sort of program broadcasters put on pay-per-view (perhaps the Superbowl, or an educational program, or the latest Seinfeld), or what broadcasters can charge for a program.

Finally, while most Americans are now concerned about the level of violence and the amount of sexual activity on television, imagine how concerned they will become when violent, hyper-real computer games and the personal sex services of the Internet combine with high definition television. Do you want that remote control in your child's hands?

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● **Television, the First Amendment, and the Role of Government**

The basic rules which determine who gets to use the public airwaves and how they get to use them are set by our representatives in Congress. In both the 1934 Communications Act and the 1996 Telecommunications Act, Congress determined that broadcasters should get a free license to public airwaves to serve the public interest, convenience, and necessity.

The Federal Communications Commission is the independent agency which determines what is in the "public interest." The FCC is the public's representative determining the fine points of Congressional rules. Besides broadcasting (radio and television), the FCC also oversees satellite, cable, and the telephone industries. The FCC has five commissioners, two republicans and two democrats, and a Chairman, usually of the same party as the President. These hotly contested political positions are decided by the President and the opposing party in Congress. The FCC's budget is determined by Congress.

The FCC often settles disputes between members of the same industry, and among the different industries. It also settles disputes between the industry and the public. Viewers have the right to petition the FCC if they determine their local television stations are not acting in the "public interest." Viewers also have the right to participate in proceedings when the FCC is creating rules to guide the broadcast industry.

Many broadcast businessmen argue that the First Amendment should apply to television in just the same way it applies to the newspaper business...that is, hands off. However, because broadcasters are licensed to use a scarce public property, the Supreme Court (even the most conservative of Supreme Courts) has consistently ruled that with regard to the public airwaves it is the First Amendment rights of the viewers, not the broadcasters, which is paramount.

Others, such as Bob Dole, have suggested that if broadcasters want to be treated like the press they should pay to use the public spectrum...after all the government doesn't give the newspaper industry trees.

● The Transition to Digital

It is often argued that the 1996 Telecommunications Act grant to existing broadcasters six megahertz (6 MHz) of spectrum for digital transmissions is only a loan, and that broadcasters will give the spectrum they currently use for analog transmission back to the government in 2006. Here is the schedule:

- 5/1/99—Network affiliates in the top ten markets must broadcast in digital.
- 11/1/99—Network affiliates in markets 11 through 30 must broadcast in digital.
- 5/1/00—All other commercial stations should be broadcasting in digital.

But this is not at all certain.

In 1997, the broadcasters were allowed to keep their old spectrum beyond 2006 if 1) a TV station in the same market has not begun televising digital signals, and 2) if fewer than 85 percent of the households in the area are unable to receive digital signals. Few expect the broadcasters will be forced to give up the spectrum they now use to broadcast analog signals.

Other facts are also uncertain about DTV, such as just what will the broadcasters transmit. Broadcasters may broadcast one high definition television (HDTV) signal with movie-like quality and dimensions, or it may send as many as five digital standard definition television (SDTV) signals. SDTV is not as sharp as HDTV, but it is superior to current analog broadcasts. In addition, broadcasters may also send new kinds of transmissions, such as data transmissions, teletext, interactive personal communications services, and even separate audio programs. Broadcasters will also be able to distribute computer software, and send scrambled signals for subscription or pay-per-view programs.

Not even the transmission format has been settled, broadcasters have yet to decide whether they will broadcast a scanning format closer to the computer screen standard—progressive scanning or interlaced scanning—which is used by other nations.

The future of digital is still in the making, including those rules to ensure that digital broadcasters serve the public interest.