

October 12, 1995

SEPARATE STATEMENT
OF
COMMISSIONER SUSAN NESS

Re: *Motion of AT&T Corporation to be Reclassified as a Non-Dominant Carrier*

Today, in another substantial stride down a deregulatory path, the Commission declares AT&T to be "non-dominant." Once again, increased competition is the basis for decreased regulation.

Sixteen years ago, as long distance competition began to mature and bear fruit, the Commission began the *Competitive Carrier* rulemaking. The primary purpose of this proceeding was to calibrate our requirements to market conditions, so that interexchange carriers could be freed of unnecessary governmental interference and agency resources could be deployed more efficiently. Over the years, rules affecting authorization for new construction, tariff filing periods, pricing justifications, and the like have been substantially eased for what were once called the "other common carriers." But, ever since the outset of *Competitive Carrier*, AT&T has been labeled the "dominant carrier."

Time has passed, and conditions have changed. So, too, must the Commission's response.

AT&T was first characterized as dominant before its divestiture of 22 operating companies, with their control over local telephone bottlenecks in communities from coast to coast. Before the divested companies and other local exchange carriers implemented equal access, so that MCI, Sprint, and others could enjoy interconnections that were equal in type, quality, and price to those which were available to AT&T. And before 800 number portability enabled AT&T's toll-free service customers to change carriers without having to change telephone numbers.

Over the years since *Competitive Carrier* was initiated, the market for interexchange services has been transformed. Today, virtually all consumers have the opportunity to choose from four or more primary interexchange carriers for 1-plus dialing. AT&T's market share is now closer to 60 percent than 90 percent. Tens of millions of consumers change their interexchange carriers each year. MCI, Sprint, and lesser carriers have the capacity to handle a substantial portion of the traffic currently carried by AT&T -- either immediately or in relatively short order.

The Commission has not ignored these market changes; as competition has grown, the Commission has accommodated AT&T with increased freedoms. In 1985, the Commission eliminated the requirement that AT&T market its enhanced services and customer-premises equipment through a separate subsidiary. In 1989, the Commission freed AT&T from rate-of-return regulation and instead allowed it to operate under price caps. Over the past few years, various AT&T services have been taken out from under price caps, and tariffing requirements have been further streamlined.

Now, based on our present assessment of the overall market for domestic, interstate, interexchange services, it is time to take the next logical step.

Today's ruling will have significant consequences. Residential long distance service, the only service remaining under price caps, will be removed from price cap regulation. Tariff changes will now take place on one-day's notice instead of 14, or 45, or even 120 days' notice. Cost support requirements will be eliminated, blanket Section 214 authority will be extended, and recordkeeping and reporting requirements will be eased.

We grant these additional freedoms on the basis of considerable evidence that AT&T lacks the ability to exercise unilateral market power in the overall interstate long distance market. This is not the same as saying that the interexchange market is perfectly competitive or that the need for all safeguards has vanished. Still, I believe we can appropriately declare AT&T to be "non-dominant" without causing injury to consumers or undermining important public policies, pending a rulemaking in which we will review issues common to all interexchange carriers.

In this regard, I want to commend AT&T for the assurances set forth in its letters of September 21 and October 5, 1995. Although they do not bear directly on the question of AT&T's dominance, these letters tender voluntary commitments on a number of important subjects for varying periods of time.

Most importantly, AT&T has pledged to offer certain pricing options for residential service that will safeguard the interests of low-income and low-volume subscribers. Also, the principle of rate integration for Alaska and Hawaii will be protected, and the Commission will have the opportunity to oversee any deviations from the traditional practice of geographic rate averaging. Rate increases for analog private lines and 800 number directory assistance will be constrained to the inflation rate. Large commercial customers, including resellers, will be able to protect their expectations against disruptions that might otherwise occur under the "filed rate doctrine." Arbitration procedures will be available to speed the resolution of complaints.

In these and other ways, AT&T has facilitated our decision to move away from "asymmetric" regulation of interexchange carriers. In so doing, we abandon some rules that may function more as hindrances to true rivalry than as consumer safeguards. Yet, even as

we continue our efforts to eliminate unnecessary regulations, we must not and will not abandon our public interest responsibilities.

To this end, we will soon initiate a proceeding to review the rules that apply to non-dominant carriers generally. This will enable us to explore which minimally burdensome "rules of the road" should be applied to all carriers. It's essential that we maintain an environment that is hospitable to the continued growth of competition.

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We are at a pivotal stage in the evolution of communications markets and common carrier regulation. In long distance, there is now considerable competition -- attributable in part to the long-range vision and steadfast determination demonstrated over the years by our predecessors at the Commission. Now, although this market continues to warrant some degree of attention, our priorities must change.

We can and should be less involved with the interexchange marketplace. There are other markets where competition remains an enticing potential, not a promise fulfilled. In particular, we are necessarily focusing more of our attention on expediting the emergence of competition for local voice and video services. I will work diligently toward the day when genuine, robust competition in local markets permits us to take such significant strides as the one we take today in the case of AT&T.

November 22, 1995

SEPARATE STATEMENT
OF
COMMISSIONER SUSAN NESS

Re: *Applications of Stockholders of CBS, Inc. and Westinghouse Electric Corporation*

Today, we approve a transfer of control of 28 radio and television broadcast licenses from CBS to Westinghouse. We also approve 18 associated requests for waivers of our ownership rules -- an unprecedented number. We do so in record time for a highly complex, multiple-station transaction. More importantly, we both accommodate the realities of the commercial marketplace and promote our public interest objectives.

Local Ownership Rules

Competition and diversity of voices are core values in our stewardship of the broadcast spectrum. They are the principles upon which our local ownership rules are founded. Fundamental democratic goals are promoted by ensuring that different viewpoints have access to the media, and this in turn is achieved by limiting the number of radio and television stations that any single entity can own in the same community.

In this case, we are confronted with a variety of specific waiver requests because the owner of a large group of stations (Westinghouse) is seeking to acquire a network (CBS) that maintains a number of its own "owned and operated" stations. In these circumstances, to prevent forced "distress sales" of broadcast properties, we properly allow the time necessary for compliance with our local ownership rules.

Here, balancing commercial realities against the goals of competition and diversity, we are granting several waivers on a permanent basis. Most other waivers are being granted on a temporary basis for 12 months. Two waivers are being granted to accommodate the Providence and Boston TV duopoly; there, because the stations' extensive signal overlap triggers greatest concern for competition and diversity objectives, we have limited the waivers to six months. Overall, we have allowed for the orderly, but not leisurely, divestiture of those properties whose sale is needed to conform to our rules. We have no evidence of market conditions that necessitate waivers of longer periods, such as the 18 months Westinghouse has proposed.

Children's Television

Today's action relates solely to the transaction proposed by CBS and Westinghouse. This proceeding is not the rulemaking regarding implementation of the Children's Television Act, and none of us seeks to resolve that proceeding in this docket.

In this case, however, a group of parties petitioned to deny this transaction because of concerns about Westinghouse's compliance with its statutory obligation to serve the educational and informational needs of children. In response, Westinghouse represented to the Commission that it will increase substantially the quantity of high-quality programming for children that will be transmitted both over the CBS television network and by the network's own stations. Relying on this assurance, petitioners withdrew their petition to deny.

I salute Westinghouse for this commitment, which will benefit America's children for years to come and set a commendable example for all television broadcasters. Consistent with well-established precedent, I have weighed Westinghouse's promise in the public interest balance.

This transaction raised significant issues that required thoughtful analysis and careful resolution. We have responded directly to the applications and petitions before us and also provided guidance for the structure and review of future media transactions. For the reasons stated above, I believe we have discharged our duties responsibly and expeditiously.

**Remarks of
Commissioner Susan Ness
November 28, 1995**

Report on the 1995 World Radiocommunication Conference

The United States approached the 1995 World Radiocommunication Conference -- WRC-95 -- with the goal of achieving major spectrum allocation and use decisions that would enable new technologies to be deployed globally. We came with a very ambitious set of proposals.

It was a long and, at times, difficult Conference. However, the results of the WRC are a testament to the great spirit of cooperation among the more than 180 nations that are members of the International Telecommunications Union.

These countries recognized the need for the ITU to embrace new technologies and to facilitate their development. They were willing to tackle the difficult issues raised by these innovative satellite systems.

Not all of these issues could be resolved fully at this Conference. The Conferees agreed to place those matters requiring additional study on the draft agenda for WRC-97.

Any discussion of the negotiations and decisions that took place at the WRC inevitably leads to a mind-numbing recitation of MHz and GHz. I will spare you that. But I would like to highlight some of the results.

Last June, the United States identified four issues to be addressed at the WRC that were essential for near-term deployment of new global communication satellite systems.

Four Issues Addressed

1. Big LEO Feeder Links

The first issue was the designation of sufficient spectrum for Mobile Satellite System (MSS) feeder links. These allocations were critical to the operational future of our Big LEO systems. Our Delegation was pleased with the worldwide allocations for feeder links for the Big LEOs, which are consistent with the U.S. proposals. In addition, the WRC-97 agenda will consider a further allocation for feeder links.

2. Additional Spectrum for Little LEOs

Second, the U.S. was seeking additional spectrum for MSS below 1 GHz. It was difficult to find worldwide spectrum in these very crowded bands. In the end, some global

spectrum was found. The Conference showed considerable interest in the Little LEO technology, but requested sharing studies and further analysis before it would support more than a modest allocation. The assembly agreed to place additional spectrum for Little LEOs on the agenda for WRC-97.

3. Modification of Spectrum Allocations at 2 GHz

Third, the U.S. sought an adjustment to the current global mobile satellite allocation in the 2 GHz band. The Commission's 1994 PCS band plan decision precipitated our WRC-95 proposal to ensure adequate spectrum for future mobile satellite service network competition. A related issue was the date on which the spectrum in this band could be used for MSS service.

As anticipated, the U.S. proposal met with considerable resistance. Nevertheless, the U.S. obtained the 2 GHz spectrum adjustment on a primary basis for our region, with an implementation date of the year 2000 for the United States and Canada. In addition, the allocation for this band in the other two regions of the world has been placed on the WRC-97 agenda.

4. Non-Geostationary Fixed Satellite Systems

Fourth, action on our proposal for non-geostationary fixed satellites -- NGSO FSS -- reaffirmed again the Conference's support for new technologies. Proponents of NGSO-FSS networks envision a global broadband Internet, delivering advanced digital broadband services to remote regions of the world.

Although the consideration at this Conference of the NGSO-FSS proposal was the subject of intense debate at the opening plenary session, the body agreed to add it to the Agenda. Ultimately, the Conference approved a 400 MHz allocation for this service, effective immediately, with another 100 MHz possible in 1997, depending on the results of sharing studies. This decision provided a necessary global green light for this technology.

Removal of Constraints on Existing Allocations

We also sought to remove certain technical constraints for MSS systems. These efforts were generally successful and will result in less delay and effort for satellite systems requiring worldwide coordination.

Voluntary Group of Experts

A less visible but nonetheless critical focus of the conference was the simplification of the radio regulations which govern, *inter alia*, the coordination of existing and future global

satellite systems. The Conference simplified most of the regulations, with some proposals subject to further review at WRC-97.

U.S. Delegation

About our team: Mike Synar laid the groundwork for a very effective delegation. When Ambassador Synar became ill, FCC alum, Brian Fontes, bravely assumed the Head of Delegation seat. Ambassador Fontes did an extraordinary job. With a great sense of humor, sense of timing, and common sense, he led our delegation through long, tough but ultimately successful, negotiations. Brian deserves our great admiration and our thanks.

I could not be more proud of the FCC participation in the U.S. delegation. They represented our country and this agency with professionalism, stamina and wit under very trying circumstances. They each deserve recognition: Cecily Holiday, who served as Vice-Chair of the U.S. Delegation and a U.S. spokesperson; Tom Tycz, who landed in a firestorm for the last two weeks; Donna Bethea, Damon Ladson, Audrey Allison, Frank Williams, Ron Repasi, Alex Latker, Giselle Gomez, Kristi Kendall, Jennifer Warren, and of course, Scott Harris.

Let me also thank Bill Luther and the members of his dedicated home team, who were on the job through the government shutdown. Let's give them all a round of applause.

Let me also recognize the outstanding work of Warren Richards and Bill Jahn from the State Department, Dick Parlow and Bill Hatch and their team from NTIA, Cynthia Raiford and our other government representatives. All displayed a spirit of cooperation, collegiality, and respect, even at the most challenging moments. They were the dream team -- the can-do crew.

Our U.S. Delegation included a host of industry members, who were invaluable for their expertise and outreach to other administrations. Despite large and often opposing financial interests in the outcome of the proceedings, our private sector members pulled together in support of the U.S. positions.

Lessons Learned

Of the lessons learned from WRC-95, the most important is this: WRC preparation cannot be done on an interim basis. There must be continuity and ongoing involvement with the ITU and its member delegations. Now that the WRC will occur every two years, we must begin immediately -- gasp -- for WRC-97. The relationships that were forged over blood, sweat and tears will be invaluable for our future participation. I am particularly grateful for the friendship and support of Canada, Mexico, and the other CITEL nations.

Under Brian's skillful leadership, a hand of friendship was extended to the European countries -- and they reciprocated. Although our positions differed, together we reached consensus, bringing the Conference to a successful conclusion for all.

November 28, 1995

SEPARATE STATEMENT
OF
COMMISSIONER SUSAN NESS

Re: *Market Entry and Regulation of Foreign-affiliated Entities*

The market entry rules we adopt today will open our markets to foreign carriers and will provide incentives for the development of competition in the global services arena. The time is right for this decision and I strongly support it.

The Commission's action should send a clear signal that we are ready and willing to act favorably upon applications for foreign entry in the U.S. telecommunications market that serve the public interest. The United States welcomes and encourages effective competition in the provision of telecommunications services, including global network services. Competition will speed innovation and the deployment of new, cost-effective technologies for consumers.

Two of the critical building blocks for the creation of the Global Information Infrastructure (GII) are competition and open access. These policies, as Vice President Gore has emphasized, cannot be implemented on a "piecemeal" basis, but require cooperative efforts among governments and industries: "[B]uilding the GII is going to require robust competition. And you cannot create robust competition by excluding competitors, whether those competitors are at home or abroad."¹ Our market entry rules represent part of the U.S. effort to advance the creation of the GII by encouraging competitive opportunities both in the U.S. market and in foreign telecommunications markets.

The rules we adopt today address well-recognized prerequisites for effective competition in the U.S. telecommunications market. The Commission's international regulatory policies have long focused on the ability of foreign carriers to abuse their market power to the detriment of U.S. carriers and consumers. Similarly, in its public interest analysis of requests for foreign carrier entry, the Commission has always considered whether U.S. companies enjoy similar opportunities in foreign markets.

The "effective competitive opportunities" criteria are intended to make this aspect of our public interest analysis concrete and predictable. Much of the uncertainty has been removed. The opportunities are great; the limitations are carefully tailored. Where a foreign carrier seeking entry into the U.S. market lacks market power in its home market or seeks to

¹Remarks by Vice President Al Gore to G-7 Ministers Meeting on the Global Information Initiative, Brussels, Belgium, February 25, 1995.

provide service from the U.S. to foreign markets other than where it has market power, our rules invite participation. But when a foreign carrier seeks to provide international service, on a facilities or resale basis, from the U.S. to the country where it has market power or when a foreign entity seeks to invest at levels in excess of the Section 310(b)(4) benchmarks, our rules make clear the conditions that are necessary, absent other public interest factors, for approval.

To achieve a truly competitive international telecommunications services market that will benefit consumers worldwide, we seek to increase opportunities for foreign carriers in the U.S. and to encourage foreign countries to remove the entry barriers that exist in their telecommunications markets, on a wholesale or incremental basis. This rulemaking is only one, interim step in the U.S. efforts to advance these goals. The passage of legislation, such as that currently pending before Congress, would be welcome to further liberalize the foreign ownership restrictions for entities from countries offering comparable opportunities to U.S. entities. Ultimately, it is only a multilateral agreement among all members of the global community that will achieve the GII goals. My hope is that the current negotiations on basic telecommunications in the World Trade Organization will lead to a far-reaching agreement among participating countries around the world to fully liberalize the basic telecommunications market.

February 8, 1996

SEPARATE STATEMENT
OF
COMMISSIONER SUSAN NESS

RE: *Applications of Capital Cities/ABC, Inc. and The Walt Disney Company For
Consent to the Transfer of Control of Broadcast and Television Station Licenses*

It is no overstatement to characterize the pace and scale of change in the media marketplace as staggering. The transaction we consider today is the largest media merger in U.S. history. More "mega-mergers" may be in the works. The merger of Capital Cities/ABC, Inc. ("CC/ABC") and the Walt Disney Company ("Disney") was proposed prior to passage of the Telecommunications Act of 1996, but the legislation that was signed into law this morning will undoubtedly accelerate the extraordinary market transformation that is already underway.

Today we approve the transfer of numerous radio and television broadcast licenses from CC/ABC and various affiliates to Disney. We find that Disney is qualified to be a Commission licensee and that the transfer of the CC/ABC broadcast licenses to Disney will serve the public interest, convenience, and necessity. We also resolve various associated requests for waiver of the Commission's rules.

I strongly support each element of our ruling. CC/ABC and Disney are two companies renowned for producing quality programming. Of course, our analysis focuses on issues of broadcast competition, not programming content. And measuring by the yardstick of competition, I am confident that we are reaching the right result.

Here, as in other media transactions, we must weigh considerations that are not present in other industries. Media companies create and distribute not cars or food or widgets, but information. To varying degrees, these companies control what news we hear, which opinions are given voice, which values are honored and which are not.

Our central concern is the public interest. In particular, will the public continue to have access to a diversity of viewpoints? Will economic competition be enhanced -- or diminished?

Competition is important not just because of the salutary economic results of multiple market participants vying for success, but also because of the benefits that result when diverse voices can be heard. In a very real sense, we are concerned not just with the dynamics of competition for particular products and services, but also with competition in the local marketplace of ideas. A diversity of viewpoints is vital to the preservation of our democracy.

The size of this transaction tells us little about its likely effects on competition and diversity. Big is not inherently bad, and big is not inherently good. Immense resources of capital and experience may be needed to undertake certain challenges, especially as global competition intensifies. Other tasks may be better accomplished by smaller, more nimble and entrepreneurial entities. It is not our role to try to determine, in advance, which kind of entity is best suited to a particular role. Rather, our job is to promote fair opportunities for the widest possible array of market participants to provide to the public the multiplicity of viewpoints necessary to a functioning democracy.

In that vein, our attentions appropriately focus more on the horizontal aspects of this transaction than on the vertical. The acquisition of a company whose primary strength is in distribution by another company whose primary strength is in content can be benign if there remains, after the transaction, a healthy diversity in both the content and distribution markets. The only problematic aspects of this transaction involve local combinations, where diversity considerations are significantly impacted.

Accordingly, we conclude here -- as did the Department of Justice -- that it is necessary to order the divestiture of one of the two VHF television stations that Disney otherwise would own in Los Angeles. In addition, consistent with our long-standing newspaper-broadcast cross-ownership rules, we order the divestiture of either the radio stations or the newspaper in Detroit/Pontiac, Michigan and also in Fort Worth, Texas. These decisions comport with our clear precedent and measurably promote the availability of diverse sources of information and economic competition in these communities.

When the cross-ownership rules were adopted, policymakers had no difficulty agreeing that common ownership of a newspaper and a broadcast property in the same market deprived the public of the opportunity for exposure to diverse voices. At the time, the intensely debated issue was whether most existing combinations should be broken up immediately or should be permitted to continue until a subsequent change in ownership. For most combinations, the Commission chose the latter course, and as a result various markets -- including Fort Worth and Pontiac -- have for two decades experienced less diversity of ownership than they would have otherwise. Throughout, the operative principles have been clear to all marketplace participants: they have known that divestiture to break up "grandfathered" combinations would be required upon sale. It is therefore entirely fair that we grant only a temporary, transitional waiver for cross-ownership of the Fort Worth and Detroit/Pontiac properties.

Media markets, of course, have changed substantially over the last two decades, and (to the extent permitted by Congress) I believe it is time to initiate a proceeding to reevaluate our newspaper-broadcast cross-ownership rules. It is essential that we review our rules periodically, to inquire whether they still make sense or whether they should be revised or eliminated. But it would be neither fair nor prudent to change those rules on an ad hoc basis, without opportunity for all parties who care about these issues to have their say.

Certainly the record in this proceeding presents none of the extraordinary considerations that justified either of the two prior waivers of the newspaper-broadcast cross-ownership rule. Moreover, the only evidence we have before us pertains to the broader "designated market areas" as a whole, not the narrower relevant market, which is the overlap area (e.g., in Michigan, our analysis must center on Pontiac, not the greater Detroit area).

Those living in the shadow of a major city are often frustrated by the limited sources of available information concerning their local community and government. While a newspaper in the smaller outskirt community may have little subscribership in the larger market, the impact of cross-ownership is likely to be considerably greater in the local market. Our current policies give this factor great weight. There may, of course, be countervailing considerations, all of which can best be considered in a multi-party rulemaking proceeding.

I also want to say a word about children's programming. There has been considerable debate over the manner in which the Commission should implement the Children's Television Act. Unlike the CBS-Westinghouse transaction we approved in December, the applicants here have made no specific commitment regarding the future airing of a specific quantity of programs that meet the educational and informational needs of children. But Disney's record in this area is commendable, and the trend in children's programming at the one television station Disney currently owns and operates has been steadily upward -- and would pass muster under any of the proposals being considered by the Commission. Outside the context of the children's television rulemaking, I see no basis for requiring anything more.

In short, I believe that the proposed transaction will bring benefits to consumers. I am pleased that we have made such sensible decisions that serve the overall public interest and promote a robust competitive marketplace.

**Remarks of
Commissioner Susan Ness
before
Women in Aerospace
Washington, D.C.
February 13, 1996**

It is a pleasure to be here with you this evening and to see so many of our WRC-95 alums. As you can imagine, the FCC is busier than ever these days. The Telecommunications Act entrusts us with significant new responsibilities to be completed under tight deadlines -- regulatory nanoseconds -- in fact, only 175 days remain for some of the most crucial rulemakings.

The number of mergers and acquisitions that have been filed in just the past 30 days is mindboggling.

But in our desire to implement the legislation, we must not neglect other critical initiatives -- items unrelated to the new law, but which enhance the international competitiveness of our telecommunications industries. Among these:

- planning for the 1997 World Radio Conference (WRC);
- streamlining and updating our satellite regulations; and
- examining our spectrum management policy.

I'd like to share my thoughts with you in these three areas.

I. WRC'95

Last fall, I had the privilege of representing the Commission at the 1995 World Radiocommunication Conference in Geneva. The United States approached the Conference as one would a campaign: our goal was to obtain satellite spectrum allocation and use decisions that would enable new technologies to be deployed globally.

We had an ambitious set of proposals and 130 delegations to convince. Keep in mind, the U.S. had but one vote -- well, two, once Micronesia gave us its proxy.

It was a long and, at times, arduous Conference. Indeed, the old adage -- *If it weren't for the last minute a lot of things wouldn't get done* -- might well have been our theme song.

The results of WRC-95 are a testament to the great spirit of cooperation among the ITU member nations. They recognized that the ITU must embrace new technologies. I was impressed with their willingness to tackle the difficult issues raised by these innovative satellite systems.

- We have named our WRC 97 Preparatory team, headed by Cecily Holiday;
- We have reconvened our Advisory Committee to work on proposals; and
- We are working with NTIA to create a joint committee -- to avoid duplication of efforts and to develop U.S. proposals at an earlier stage.

Lesson Two: We must reach out and touch someone -- preferably from another delegation. We invited women delegates from other countries to a Women's Breakfast. It was exciting to meet the woman heading the Egyptian delegation, and the chief engineers from Jordan, Thailand, China and Brazil. The friendships formed at that breakfast are the foundation for mutual understanding, not just for WRC-95, but for future conferences.

Lesson Three: Our delegation included many industry members, whose expertise and international contacts were invaluable. Despite sometimes conflicting financial interests, our industry members faithfully advanced the official U.S. policy. Such government-industry cooperation will be critical at future conferences.

Lesson Four: Maintain a good sense of humor. It can break the ice and allow compromise to follow. How true it was!

I am very proud our U.S. delegation and its head, Brian Fontes. We are fortunate that many of these experienced individuals will be part of our WRC-97 team. I plan to continue my involvement as well.

II. INTERNATIONAL RULEMAKINGS

You can't have global satellite systems without international spectrum allocations. But U.S. companies also need to be able to enter foreign markets to offer these global services once they are "off the ground."

The Commission has taken a leadership position in opening our markets to foreign competitors. Our recent Foreign Carrier Rulemaking provides concrete incentives for foreign countries to remove the barriers that keep U.S. companies out of their telecommunications markets.

In addition to these efforts abroad, the Commission is conducting a top-to-bottom review of our satellite licensing policies and regulations. Last month the Commission adopted an order, known as "DISCO" that eliminates the distinction between U.S. domestic satellites and international separate systems.

Under the new rules, U.S.-licensed providers of fixed, mobile, or direct broadcast satellite services will be allowed to offer these services both domestically and internationally. This greater flexibility should spur competition in satellite services and allow our satellite operators to meet customer demand in an increasingly globalized economy.

I know that the satellite industry has a great interest in spectrum issues and I look forward to hearing its views on these topics. A vigorous debate with the full range of viewpoints is an important step in formulating a spectrum management policy for the 21st Century.

Thank you.

**Remarks of
Commissioner Susan Ness
Federal Communications Commission
before the
American Advertising Federation
March 14, 1996**

The Power of Advertising

Thank you for your kind introduction.

It is a great pleasure to be speaking before such a powerful audience. Of course, I get to speak to lots of powerful audiences -- broadcasters, telephone companies, and the like -- but we *regulate* them, and they *have* to listen to me.

You don't -- so I truly appreciate your warm welcome.

I have always been fascinated by advertising. I can remember many commercials from my childhood.

For example, there's the Maxwell House Coffee tag line -- "good to the very last drop." My ninety-eight year old grandmother in California still wants to know, "What's wrong with the last drop?"

And then there was the particularly boring day in school when I passed the time by dissecting an advertised brand of cold capsule to determine whether there truly were 800 tiny time pills inside it. There weren't.

"Where's the beef?" A phrase that I have found particularly useful in my present occupation, purloined from a memorable spot.

Advertisers -- you've come a long way (I won't say "baby") since the infancy of television. In 1930, the Federal Radio Commission (predecessor of the FCC) ruled that the rebroadcasting of radio commercials on television was illegal.

This was based in part on the view that TV was experimental and solely for research. But it also reflected the view Herbert Hoover had expressed a year earlier: "It is inconceivable that we should allow so great a possibility for service, for news, for entertainment, and for vital commercial purposes to be drowned in advertising clutter."

65 years later, in 1994, annual expenditures for television advertising totalled \$33.7 billion.

What would the world be like without advertising? Advertising is the financial engine that drives much of what the American public sees or reads or hears.

Without advertising, entertainment and news programming on television would not be produced. Newspapers and magazines would not be published. Radio stations would be silent. Consumers would have starkly fewer products to choose from, and competition based on price or quality would be difficult.

Advertisers play a critical role in our society. Their clout was demonstrated recently.

People had been expressing their displeasure with the trashy content of daytime television talk shows. Reading a synopsis of the day's talk show topics in the TV listings was akin to reading a tickler list for perversion and promiscuity.

The public sounded the alarm for producers and station owners to take greater responsibility for the product they produce and air. No response.

Along came Secretary Bill Bennett and Senator Joe Lieberman. They berated broadcasters for the shows they produce and air. All to no avail.

But then Bennett and Lieberman focused the spotlight on the advertisers that sponsored these programs. Like magic, the shows were dropped from station lineups.

That's power!

And that's why, in our short time together this morning, I want to explore with you the make-it-or-break-it role that advertisers play in improving quality programming options for children. I also want to examine media concentration in this rapidly changing communications world and its implications for advertisers.

Children's Television

As individuals and as organizations, we form a national community. And as part of that national community, I think we can all agree that we have a collective responsibility to ensure that our children are given the best possible foundation for success. Our children are our future.

One of the dominant forces in their lives is television, a singularly pervasive, persuasive, and powerful medium. Children watch an average of 27 hours of television a week. But I don't need to give you viewer statistics -- you live and breathe them.

Television can educate, illuminate, and entertain. It can also annoy, pollute, and debase. Today, television does too little of the former -- and too much of the latter.

For example:

- A recent study of violence on television and cable reaffirmed what many parents intuitively feel: that television is teaching our children to behave

violently, desensitizing them to the consequences of violence, and increasing their fears of becoming victims.

- President Clinton's recent White House summit on children's television underscored the need for voluntary action by broadcasters and producers to bite the bullet and eliminate bullets from our daily diet of video programming.
- The record also shows that Americans believe broadcasters do too little to meet the educational and informational programming needs of children. The paucity of programming options led Congress to pass the 1990 Children's Television Act. While progress has been made, there still are far too few quality program choices for kids.

So, the message is clear: our national community is calling on broadcasters -- and their advertisers -- for sober self-assessment and improved service to tomorrow's adults.

Frankly, I think broadcasters have missed an opportunity to show leadership on behalf of children. The Children's Television Act requires every broadcast licensee to serve the educational and informational needs of children. But, most broadcasters have vehemently fought efforts to put meat on the bones of that statute.

As I see it, there are three impediments to the marketplace working for kids:

- First, the cost of quality educational and informational children's television programming;
- Second, the challenges of scheduling such programming; and
- Third, the means of effectively promoting such programming.

You -- the advertising community -- can make a difference in each of these areas.

First, program cost: I believe educational programming, to be successful, needs to be programming children will *want to watch*. It needs to capture and enrapture, to entertain and educate.

There are ample examples of programming that is both educational and entertaining.

How great it would be if advertisers would underwrite such programming for commercial television as well as for public television.

Why don't we have the junior version of the Hallmark Hall of Fame or Texaco's Metropolitan Opera?

Also, let's not just rely on ratings to determine success or failure. There may be ancillary products associated with such programs, for example, the Magic School Bus books and tapes, which have been marketed with great success. That's how the market works for non-educational shows.

Today, syndicators pre-package advertising with programs and clear the time with the dollars. Often, they sell two shows together, the first advertising the action toy featured in the second program and vice versa. With prepackaged, pre-sold product in competition for airtime -- or dollars -- quality children's programming doesn't stand a chance.

So, let's try to think of creative ways of attractively packaging entertaining and educational programming with advertising. Let's give broadcasters a good reason to choose a course that will actually benefit children.

Again, our children are our future.

Secondly, scheduling: I hope our revised definition of core children's programming will include the hours in which it is be aired -- geared to when children are likely to be watching. And I especially hope that we will take the steps necessary to ensure that each broadcaster makes a significant, concrete commitment to serve the needs of children -- every week -- with regularly scheduled shows.

One failure of the children's programming market is that some broadcasters view the "opportunity cost" of providing educational and informational programming to be too high. But the competitive consequences of this consideration fall away if every licensee must meet its responsibility to children in its community.

You can help by seeking opportunities to support these shows. You can also insist that these programs be aired in the dayparts with the best chance of attracting a reasonable-sized audience.

Finally, Promotion: In order for a program to attract an audience, parents and children need to know it exists. It's important for the Commission to require that broadcasters designate which shows they deem educational and to make this information publicly available for use in weekly program listings.

Then, as a purely voluntary matter, I hope newspapers will choose to prominently feature lists of family-friendly fare -- as identified by broadcasters -- and that you, the advertising community, will support that effort. For example, an advertiser could sponsor a special box in the weekly television guide that lists educational programming. What a community-minded statement that would make!

All of the pieces have to fit together. If children and their parents are better able to find these programs, audiences will grow, advertising dollars will flow, and more good programming will be produced.

This is the marketplace at work.

I challenge the advertising community to seize the opportunity to serve our nation's children. Make a conscious decision to support high-quality educational and informational programming. And discourage the airing of gratuitously violent programs and just plain "trashy" talk shows, particularly during the after-school hours when so many children are watching.

Television can be -- and should be -- a family-friendly medium. Advertisers have the clout to make this happen.

Or not.

Media Concentration

Now let me turn to media concentration.

Why do we have ownership limits for radio and TV broadcasting? To foster competition and to insure a diversity of voices in the marketplace of ideas. These are principles I care about.

Having diverse sources of news and informational programs within a local market is important to an informed citizenry. Stated another way, no one person or handful of people should be able to control information flow.

Only through a diversity of voices can we nurture our shared freedom, our common bonds, our national community. And only through spirited competition can we assure that the advertising marketplace is fair and open.

The Telecommunications Act of 1996 increased broadcasting ownership limits, and removed legislative prohibitions on other media combinations within a local market.

The law changes some existing rules and leaves the Commission with discretion as to others. In general, Congress recognized that greater freedom should be allowed on a national level, while certain limits should be retained on the local level to preserve diversity.

In the case of radio, the new law removes all national ownership limits. The only restrictions are at the local level, where various combinations of stations are allowed, depending upon the number of competing voices in the market. Last week, the Commission issued an order adopting these congressional directives.

In the biggest markets, a company may own up to eight radio stations; no more than five in a single band. These could be the top-rated stations in the market.

When it comes to consolidating holdings, many radio groups did not even wait until the ink was dry -- or shall I say the laser pen was turned off -- at the Bill-signing ceremony. There already has been a sea-change in the ownership structure of the radio industry. While I believe local duopolies have been good for radio, it would be unfortunate if everyone must combine into local, multi-station groups to have a chance of competing successfully.

Time will tell whether common ownership of the top eight radio stations in a market will have an adverse impact on advertising. Concentration in media markets may limit competition for advertising dollars -- just as it may limit competition in the marketplace of ideas.

I will be watching these developments closely. I know you will as well.

In the case of television, the new law eliminates the national cap on the number of stations that may be commonly owned and raises the present audience reach from 25 percent to 35 percent.

At the local level, the new statute does not require us to change our existing rules but permits us to consider whether a single entity should be allowed to control more than one TV station in a given market.

I haven't made up my mind on this issue. But in general, I believe that those promoting a change have the burden of showing how increased concentration -- decreased diversity -- would serve the public interest.

And, given the sky-high prices being paid for some media properties, one can imagine that there will be upward pressure on advertising rates and downward pressure on expenditures for quality programming.

In addition to raising in-service ownership limits, the law eliminates the statutory prohibition against broadcasters owning a cable system in the same market (our rules remain), permits broadcast network/cable system cross-ownership, and allows one entity to own both radio and television stations in the top fifty markets.

Cable companies are consolidating ownership as rapidly as broadcasters. In 1995 alone, almost six billion dollars in cable system sales took place. That's not including the Time

Warner-Turner deal -- or this year's \$10.8 billion sale of Continental Cablevision, the third largest MSO, to US West Media, a Bell Operating Company affiliate.

Last summer, two of the three original TV networks were sold -- one to one of the largest program producers, Disney, and the other to Westinghouse, a mega-station powerhouse.

Where will it end? What will be the impact on the advertising market? What will be the effect on the marketplace of ideas?

All of us have a stake in the answers to these questions.

Conclusion

I hope we all agree that meeting the programming needs of children and promoting a diversity of voices are worthy goals for our national community.

Advertisers have the power -- and the tools -- to make a difference. It is up to you.

Thank you.

REMARKS OF
THE HONORABLE SUSAN NESS
COMMISSIONER
FEDERAL COMMUNICATIONS COMMISSION
before the
40TH ANNUAL MEMBERS MEETING
of the
ASSOCIATION FOR MAXIMUM SERVICE TELEVISION, INC.
LAS VEGAS
APRIL 15, 1996

CHANCE OR CERTAINTY
(Or, How Not To Be Behind The Eight Ball)

It is a pleasure to be with you in Las Vegas today, to celebrate the 40th anniversary of MSTV.

Las Vegas -- the city of chance. A place of hopes and maybes and what ifs.

Me? I like certainty. So, in preparation for this trip, I asked my 7-year-old son to lend me his fortune-telling crystal ball. I thought it could help me answer your questions.

By the way, negotiating with my son to borrow this crystal ball was almost as tough as negotiating with broadcasters about children's television. The ball is here, so maybe we'll see success on kidvid!

Advanced Television -- Chance or Certainty?

Over the past two years, I have spoken frequently about the role in our society of free, over-the-air broadcasting. When broadcast ownership is widely held, quite simply, it is an insurance policy for democracy.

Although other forms of video entertainment and information have eroded broadcasting's dominance, the vast majority of Americans still receive most of their news and information from broadcast channels. And they can be received anytime, anywhere, for free.

As long as station ownership remains widely held, the public benefits from the opportunity to receive programming from diverse sources.

The Uncertain Future

Communications is entering a new era. The digital era. The technology has presented a cornucopia of new consumer products and services that did not exist even three years ago. With it comes a convergence of voice and video, of data and the world-wide-web.

Cable will convert to digital, once the cost of set-top boxes declines. It does not need FCC approval. Wireless cable and direct broadcast satellite may transmit digitally. Telephone companies may construct open video systems, with analog and digital channels.

Only broadcasters need formal FCC approval to convert to digital. You are constrained by spectrum scarcity, interference restrictions, and FCC rules. You require Commission action to proceed.

Should broadcasters be allowed to convert to digital transmission? Should broadcasters be given the chance to compete? My crystal ball says,

"Concentrate and ask again."

"Yes, definitely!"

FCC Decisions

What needs to happen? There are three major phases remaining in our advanced television rulemaking:

The first, to address the transmission standard;

The second, to design an allotment plan, carving up the spectrum into licensed channels; and

The third, to establish rules for the transition and for governing the service to be offered.

The notice to consider adoption of the Grand Alliance standard is slated for presentation in three weeks at our May 9th meeting.

And I have asked the Chairman to expedite the second notice, which will propose for public comment channel allotments and methods of assigning those channels. I hope it can be considered before we undertake the rush of Telecommunications Act implementation items due this summer.

Last summer we issued a further notice of proposed rulemaking on the third item, the transition mechanisms and service rules. We proposed to provide each incumbent broadcaster -- temporarily -- with an additional six megahertz of spectrum to transition into digital. At the end of the transition period, six megahertz would be returned.

But as a final step before adopting the 1996 Telecom Act, Congressional leaders asked the Commission, and all of the Commissioners agreed, not to issue any construction permits or digital licenses this year so that Congress can consider whether to require the FCC to auction the spectrum.

There will be ample opportunity for the public to comment in each of these phases of the rulemaking before final decisions are reached and orders are entered.

Transmission Standard

A few words about the first item -- the transmission standard:

MSTV started the ball rolling for advanced television. In 1987, you led 58 broadcast organizations to petition for an FCC advanced television proceeding.

In response, the Commission established an Advisory Committee comprised of a broad range of private interests -- broadcasting, cable, computer, motion pictures, and manufacturers -- to work through the issues.

The process was impressively open and impartial. Throughout, anyone could join any of the Advisory Committee working groups to offer expertise. Hundreds did. Testing was conducted by private parties under designs developed by the Committee to ensure that the testing was fair and accurate.

During the proceeding, General Instrument did what others said couldn't be done -- it developed a digital video transmission system, leapfrogging international competitors.

Parties then consolidated efforts to produce a single standard. That action eliminated the need for the FCC to choose from among several standards or to approve all minimally acceptable standards, as the Commission did in its infamous "AM Stereo" proceeding.

All of this was accomplished by the Advisory Committee, the Advanced Television Testing Center, the Advanced Television Systems Committee, and a host of companies, with minimal governmental intervention or cost. I salute Dick Wiley, Chair of our Advisory Committee, for his outstanding contribution. He cajoled everyone to develop, test, and deliver a world class digital standard.

The Grand Alliance standard is a work of art -- the art of compromise. It offers:

- * A stunningly clear, high definition picture with an aspect ratio ideal for delivery of film and sports entertainment.
- * The ability for broadcasters to vary the amount of bandwidth per program stream to maximize spectrum efficiency.
- * Flexibility to provide not only video programming, but also data and other services.
- * Technological headroom, to implement future improvements and entrepreneurial innovations.

The standard won unanimous approval from the Advisory Committee, and I am unaware of any parties who oppose its adoption.

Unless significant flaws have been uncovered, I believe that we should propose at our May meeting to adopt the Grand Alliance standard. Given the openness of the process and years of consideration, including previous Commission decisions, I approach this issue with the belief that the burden of showing why we should not mandate the standard lies with the proponents of that view.

There may be some that believe that a different technology is better. There may be those who argue that the Commission should not mandate one standard, but rather should authorize the use of multiple standards: the Grand Alliance standard, as well as any other non-interfering standard. They say, "Let the marketplace decide. "

Somehow, adopting a digital broadcasting standard is -- how shall I say this -- "too regulatory."

Undoubtedly, we will debate that issue in our standards rulemaking.

But while I am persuaded that we should allow licensees greater flexibility in use of the spectrum, I do not believe that the public will benefit from the confusion that will ensue over multiple broadcast standards.

There is theory and there is reality. In real life, investment decisions have to be made. Investors need *certainty* that there will be a critical mass of viewers before they will commit their dollars.

Manufacturers need *certainty* before they can begin producing advanced television receivers. Absent a mandated standard, investment and manufacturing decisions

could be stalled, thwarting the ability to convert rapidly and smoothly to digital broadcasting.

Consumers need *certainty*, too. They need to know that the television set they buy in Louisville will work when they move to Lincoln, or Little Rock, or Lubbock.

Certainty, not chance. **"You may rely on it," not "better not tell you now."**

My aversion to multiple broadcast standards is not a desire to freeze technology. The standard submitted provides ample headroom for technological improvements and flexibility for innovative services without additional government approval.

Moreover, we have a limited window of opportunity for global leadership in this highly desirable, high tech sector. Let's not let our lead slip away in search of the perfect solution.

Again, I remain open to be convinced that another way is better. But those arguments should come soon. It is time to get on with it .

Allotment Item

The ultimate design for allotments will depend in large measure upon the decision of Congress whether the Commission must auction the digital spectrum or provide a transition mechanism for existing broadcasters. If there is to be an open auction, there would be no incentive to replicate existing contours.

Transition and Service Rules

There are some who do not believe that HDTV is important or that broadcasting is committed to its future. Some suggest that we should follow England's lead and guarantee broadcasters only 2 megahertz of spectrum to digitally replicate existing analog programming.

I do not know what consumer response is going to be to high definition. Even my crystal ball says: **"cannot predict now."**

However, I do not support proposals that would prevent high definition from having a *chance* to succeed in the marketplace.

We should not make success a certainty, but we must provide a fair chance for it to succeed in the marketplace.

Auctions

As you know, the FCC does not have the authority to auction broadcast licenses. Congress must decide whether to auction the digital spectrum or whether to give broadcasters spectrum to convert and then auction the analog channels. There are reasonable arguments on both sides of the issue.

Personally, I believe that the public is better served by providing broadcasters with the ability to convert to digital, repacking the licenses, and then auctioning the spectrum that has been returned.

There are strong demands from other services, particularly mobile services, that could be satisfied from the "reclaimed" spectrum. The amount to be reclaimed -- a clear and contiguous amount that would be available nationwide, estimated at 150 MHz or more -- exceeds the entire amount of spectrum devoted to PCS (120 MHz).

Whatever the result, I hope that the decision is based upon sound communications policy and not driven solely by budget concerns.

No one is certain how to ensure that broadcasters return the analog transitional channels to the Government. If this is the path selected, we will do all in our power to enforce a reasonable transition period of limited duration, and secure the return of the analog spectrum.

Unless there is a firm and irrevocable requirement to return of the spectrum for auctioning, together with a firm commitment from broadcasters to effectuate the transition as quickly as possible, then the case for granting broadcasters a second channel for transition to digital would be --- as my crystal ball says -- "**very doubtful.**"

Children's Television

And frankly, given the disheartening lack of cooperation I have experienced with broadcasters on the children's television docket, I wonder whether broadcasters will cooperate in returning the analog spectrum when the time comes.

Let me make clear, I am not linking the two in subject matter. I am suggesting that in the digital television context broadcasters are going to need credibility and goodwill, both of which have been depleted by the way the industry has responded to the children's programming issues.

For the past two years, I have been calling on broadcasters to join with me in putting flesh on the bones of the Children's Television Act. Regrettably, not much progress was made until the beginning of the renewal cycle loomed large.

The issue is over how the FCC determines, as it must at license renewal time, the extent to which broadcasters have met their obligation to provide educational and informational programming for children. The statute was enacted shortly before the last renewal cycle began. And accordingly, broadcasters were held to a low standard of performance for purposes of that renewal cycle.

Everyone understood that a higher level of responsiveness to the needs of children would be required in the next renewal cycle, which is now about to begin. The Commission has sought to provide guidance on what expectations broadcasters must meet, but unfortunately we have not been able to complete our rulemaking.

There is widespread agreement on certain elements of the needed solution.

We all agree on the need for a revised, tighter definition of what qualifies as educational and informational programming. The Commissioners are all in basic agreement on the fundamental elements of this definition: regularly scheduled, standard-length programs that are specifically designed to serve the educational and informational needs of children. My personal view is that the definition should apply only to shows that air between the hours of 7:00 am and 10:00 p.m.

We also agree on the importance of improving the flow of information to children and to parents, or the availability of such programs.

Educational programs will need to be identified in advance to publishers of program guides, and information about each licensee's children's programming performance will need to be collected in station files and submitted periodically to the Commission.

The harder question is: what guidance do we give to broadcasters about what level of performance will satisfy the statutory obligation to meet the educational and informational needs of kids?

As I see it, there are three ways to go:

(1) Set a minimum requirement -- a quota -- of, say, three hours per week (this is the approach most children's programming advocates want, though most would set the requirement at five or seven hours per week).

(2) Decide a standard, but on an ad hoc, case by case basis, without advance guidance to broadcasters -- in other words, you ask your crystal ball, "what do I need to do to comply?" and it says "**cannot predict now!**"

(3) Or, provide broadcasters with both certainty and flexibility, with a safe harbor approach. If a station airs, say, three hours of core programming, it would

have the certainty of knowing that it has fulfilled its obligations under the Act. But that would not be the only way of meeting that obligation.

If a broadcaster has aired slightly less than the safe harbor minimum, it could show that its commitment to children is comparable. For example, a station that airs only two and one-half hours per week of programming but has developed its own children's show at significant additional expense and has an exemplary record of children-oriented interstitials would be deemed to have fulfilled its responsibility.

It weighs about the same.

Specific examples of "comparable" commitment could be spelled out in advance, but not in a way that limits the ability of broadcasters to exercise their own creativity in finding other ways to make an equally meaningful commitment.

Absent agreement on a standard, I fear that broadcasters will need more than a crystal ball to ascertain what level of performance will ensure license renewal.

I don't think it's fair to leave this to chance.

Conclusion

In the case of digital television -- broadcasters, manufacturers, investors, and consumers need certainty.

In the case of children's television, broadcasters need certainty of knowing that they have complied with the Act. And parents need certainty that there is quality educational programming available for their children to watch.

Will we be able to achieve this kind of certainty? Let me ask my crystal ball:

"It is decidedly so."

July 1, 1996

NESS SEES OPPORTUNITY TO TURN CHILDREN'S TELEVISION INTO A WIN FOR BROADCASTERS AND COMMUNITIES

"Working together, as individuals we can ascend in our chosen careers. And working together as a community, we can ascend by delivering communications products and services that reflect our highest values," said FCC Commissioner Susan Ness, in a keynote address on Friday, June 28 before the 45th Annual Conference of American Women in Radio and Television in Naples, Florida, on their conference theme "Ascend '96." Commissioner Ness lauded the progress of women in communications and broadcasting and encouraged their continued efforts to bring meaningful change to the industry and their communities.

In particular, Commissioner Ness outlined several recent steps by the Commission to "increase opportunities for women to ascend as owners" of telecommunications services. In the spectrum auctions, Commissioner Ness observed that, "[t]he Commission wrote its auction rules to open the doors of opportunity. We provide a chance to compete in a race based on talent. There's no guarantee of success, but there's a place at the starting line for some who never before made it into the gates." Commissioner Ness explained that the newly-created Telecommunications Development Fund, financed by interest earned in the auctions, "will become a valuable resource for loans and investments in small communications businesses." Commissioner Ness also announced a public forum on market entry barriers, to be held later this summer. Commissioner Ness said that the forum is part of a proceeding mandated by the Telecom Act to inquire about the obstacles encountered by small businesses in "entering the marketplace and accessing capital. It seeks information on barriers unique to women and minorities who are pursuing employment and ownership opportunities in this field."

Commissioner Ness also addressed the Children's Television Proceeding. Commissioner Ness highlighted that under the proposed three-hour safe harbor approach that is expected to be adopted, broadcasters "need not sacrifice quality for quantity. You have the flexibility to choose, as long as the level of commitment is roughly equivalent to three hours of core programming." Commissioner Ness explained, "Now is a great opportunity to turn the Children's Television Act into a win for broadcasters and your communities. Work together to find programming concepts that kids like. Work with the advertising community to underwrite these programs. Work with your communities to promote them. You can do it -- I know you will show that leadership."

Praising those women in telecommunications who "demonstrate by their deeds that it is possible to give back to society at the same time" as they advance their careers, Commissioner Ness concluded: "I don't think that we need to separate our roles as businesswomen from our roles as concerned parents, grandparents, aunts, sisters, or members of the community. I don't think that our values need to change as we leave the

living room and enter the board room."

- FCC -

Statement

of

Commissioner Susan Ness
Federal Communications Commission

before the

House Subcommittee on Telecommunications and Finance

July 18, 1996

July 18, 1996

**Summary of Testimony of
FCC Commissioner Susan Ness**

It is a privilege to appear before you today. I welcome the opportunity to discuss with you the strides we have made in implementing the Telecommunications Act of 1996, and the many challenges that we will face in the months ahead.

The Telecommunications Act of 1996 enables a vital sector of our economy to grow and to prosper, to better meet the needs of American consumers and businesses, and to increase U.S. competitiveness abroad. As the Federal Communications Commission implements the legislation, we are taking our direction from its language, and filling in the interstices appropriately. This means acting with a guiding sense of fairness to the complex array of interests and parties before us. Most importantly, it means recalling that Congress intended to benefit the American consumer with this legislation, and that the public interest must always remain at the fore in our deliberations and decisions.

Introduction of local telephone competition is at the heart of your legislation, and our rulemaking to implement the interconnection provisions of Section 251 is possibly our most significant proceeding. It is also, perhaps, our most complex.

The issues relating to local competition are not assigned entirely to the FCC. The Telecommunications Act of 1996 contemplates that these matters will be resolved in a combination of ways -- through voluntary negotiations, through state mediation and arbitration, and through FCC regulations. Our approach must reflect that mix. It is also essential that we establish a new relationship -- a partnership, if you will -- with the states.

On the topics of interconnection, universal service, and access charges, it is possible that state and federal perspectives will be different, but we are determined to think the issues through together. We share a commitment to follow the law. We share a commitment to promote competition. We share a commitment to protect consumers. I am confident that, working together, state and federal commissioners can fulfill both the letter and the spirit of the law you authored.

The Telecommunications Act of 1996 has charted a new path for the evolution of this industry over the next few years. It is an honor to be part of the process of working to implement Congress's vision and intent.

**Statement of
Commissioner Susan Ness
Federal Communications Commission
Before the
House Subcommittee on Telecommunications and Finance**

July 18, 1996

Mr. Chairman and Members of the Subcommittee:

It is a privilege to appear before you today. I welcome the opportunity to discuss with you the strides we have made in implementing the Telecommunications Act of 1996, and the many challenges that we will face in the months ahead.

When we last appeared before you, I congratulated you on the historic accomplishment of passing the new Telecommunications Act. You placed your trust in the Federal Communications Commission to effectuate your vision, and now, only five months after its passage, and four months since we last met, the Commission can report that it has successfully achieved every statutory deadline, and that it will continue to do so.

As an institution responsive to the public which we serve, we have streamlined our procedures and eliminated unnecessary regulation. As an agency charged with spurring competition, promoting technological innovation, and eliminating barriers to entry, we have initiated -- and in some instances already concluded -- dozens of rulemakings to accomplish just that. Our universal service joint board is plowing ahead. Our open video systems rules are in place. Our broadcast ownership rules conform to the new legislative mandates. And as we work on rules for interconnection and for interLATA competition, we have already eased regulation to facilitate the entry of the Regional Bell Companies into long-distance service outside of their home regions.

Everyone at the FCC -- every Commissioner, every Bureau, and every Office -- is working hard, and with a sense of mission. I am proud to say that the women and men of our agency are determined to meet the challenges of implementation with decisions that will withstand both public and judicial scrutiny.

The legislation enables a vital sector of our economy to grow and to prosper, to better meet the needs of American consumers and businesses, and to increase U.S. competitiveness abroad. We are taking our direction from the legislation, and filling in the interstices appropriately. This means acting with a guiding sense of fairness to the complex array of interests and parties before us. Most importantly, it means recalling that you intended to benefit the American consumer with this legislation, and that the public interest must always remain at the fore in our deliberations and decisions.

I have a keen sense of the complexity of the issues with which you grappled as you crafted this legislation. I also appreciate the wisdom reflected in the decisions you made.

You were right to commit us irreversibly to a course of competition in local telephone service, but also to insist that universal service -- with affordable rates for all Americans -- be maintained. You were right to adjust media ownership limits, but not in a way that imperils the diversity of speakers in any particular market. You were right to empower us to eliminate unneeded regulations, but only where the regulations in question are unnecessary to prevent unjust and unreasonable discrimination and where consumers' interests can otherwise be protected.

In the midst of all the Telecommunications Act activity, it is difficult to single out one area warranting special emphasis. But the introduction of local telephone competition is at the heart of your legislation, and our rulemaking to implement the interconnection provisions of Section 251 is possibly our most significant proceeding.

It is also, perhaps, our most complex.

Federal-State Partnership

The record developed in our interconnection proceeding exceeds 17,000 pages. We are now meeting with scores of industry representatives who want to share additional information and analysis with us. By the time of this hearing, the Commissioners will have received two draft orders, totalling well in excess of 500 pages, which we need to review and consider and discuss and edit. Many hard questions are presented. What costs are "avoided" when telecommunications services are provided on a wholesale rather than retail basis? Should unbundled network elements be priced solely on the basis of forward-looking costs, or should embedded costs also be weighed in the equation? Should call-waiting, call-forwarding, and similar services be available only under resale tariffs, or should the underlying capabilities be available to new entrants as part of a switching platform? Are the interconnections of commercial mobile radio service providers with local exchange carriers subject to Sections 251 and 252 -- or to Sections 332 and 201?

These issues are not assigned entirely to the FCC. The Telecommunications Act of 1996 contemplates that these matters will be resolved in a combination of ways -- through voluntary negotiations, through state mediation and arbitration, and through FCC regulations. Our approach must reflect that mix.

To resolve the issues that need to be addressed, we must establish a new relationship -- a partnership, if you will -- with the states. As a member of both the Joint Board on universal service and the NARUC Communications Committee, I have been working with my federal and state colleagues to establish a base of mutual trust and cooperation.

That understanding and cooperation will be invaluable not only as we finalize our interconnection rules, but also as we address the closely related issues of universal service and access charge reform. As we stated in our Interconnection Notice, we understand -- as you do -- that the introduction of competition in local telephone markets will intensify the

need for reform of our interstate access and universal service mechanisms. Over the course of these three proceedings, we need to ensure that subsidies are truly explicit and better targeted. But as we complete the first rulemaking and prepare for the second and third, we need to be careful about the manner in which we effectuate the transition from one regime to another.

On the issues presented in all three contexts, it is possible that state and federal perspectives will be different, but we are determined to think these matters through together. We share a commitment to follow the law. We share a commitment to promote competition. We share a commitment to protect consumers. I am confident that, working together, state and federal commissioners can fulfill both the letter and the spirit of the law you authored.

Children's Television

Even while we implement the Telecommunications Act of 1996, we must continue to meet our other responsibilities under the law. I mention one such responsibility, involving the Children's Television Act of 1990, because it is one which I have approached with the seriousness and commitment expected by Congress when it passed the Act.

The law directs us to assess, at license renewal time, the extent to which each television broadcaster has served the educational and informational needs of children. The problem is that we have not had any standard by which to measure whether a licensee has satisfied its obligation. As a result, broadcasters have lacked clear guidance, children have been shortchanged, and our staff has been required to undertake a highly resource-intensive process to evaluate each renewal application.

A few weeks ago, we believed that we had reached consensus. All four Commissioners had agreed to support a processing guideline based on three hours of "core" educational and informational programming. Under this approach, a broadcaster which offers three hours of qualifying programming per week is assured that it will be deemed to have fulfilled its obligations under The Children's Television Act. But approval can also be obtained if a somewhat lesser amount of core children's programming is supplemented by significant other programming activities which, in the aggregate, represent a comparable level of commitment. This approach offered broadcasters dual virtues: the certainty that they are meeting their legal obligations, and a measure of flexibility to do so in the manner of their choice.

Unfortunately, this consensus broke down last week. Nonetheless, I remain hopeful that we might still resolve this issue in a manner that works for children and families, for broadcasters, and for the Commission. Our agency is working day and night to implement the Telecom Act, and we cannot afford to allow this roadblock to divert us from our other responsibilities along the information highway.

Conclusion

The Telecommunications Act of 1996 has charted a new path for the evolution of this industry over the next few years. It is an honor to be part of this process. I welcome the opportunity to account to you on our performance to date and to receive your guidance on our future efforts.

Thank you.

**Remarks of
Commissioner Susan Ness
Federal Communications Commission
Before the 45th Annual Conference of
American Women in Radio and Television
Naples, Florida
June 28, 1996**

WOMEN ... ASCEND!

It is a pleasure to be with you today.

Naples is a lovely place to hold a conference. I wish I could stay and enjoy the view and the company, but I have to return immediately to Washington. At long last we are about to circulate a draft of the children's television report and order.

But short visits have their advantages. For one thing, I didn't have to waste time unpacking. And with the long hours I've been working, my husband and children probably haven't even realized I've left town!

I can't leave Washington much these days because, as you know, the FCC is working non-stop to implement the eighty rulemaking proceedings required under the Telecommunications Act of 1996.

Congress directed the Commission to complete in record time a host of complex items that will have a profound effect on every sector of the communications industry. For example, by August 8th -- just six months after enactment -- we must finalize rules that will provide a national blueprint for competition in local telephone service -- a \$100 billion market. The pleadings submitted in this proceeding alone total 17,000 pages!

On July 11th, we hope to vote on a notice proposing an allotment schedule for digital television channels. And we just issued rules inaugurating open video systems -- an open platform to enable telephone companies to provide multichannel video in competition with cable television. All this, while reviewing some of the largest communications mergers in history.

Notwithstanding this frenetic pace, it is a terribly exciting time to work at the FCC and in the telecommunications field.

AWRT is doing a wonderful job of advancing the success of women in our thriving industry. I would like to thank you for your participation in the FCC's Spectrum En Banc earlier this year and for your thoughtful comments on our EEO Notice of Proposed Rulemaking.

I consider it a vital duty -- no, an honor -- for women to extend professional opportunities to other women. This is something I have tried to practice throughout my career. If my

presence here underscores that point, I consider this short visit well worthwhile.

I think it is particularly appropriate that, in this historic year, you have chosen the theme "Ascend" for your convention. So in keeping with your theme, I would like to discuss opportunities for the ascension of women in telecommunications. Working together, as individuals we can ascend in our chosen careers. And working together as a community, we can ascend by delivering communications products and services that reflect our highest values.

Ascending In Our Careers

The FCC, I'm pleased to report, is one telecommunications agency where women are in ascendancy. Half of the FCC's commissioners are female. And four of our six bureau chiefs are women. This has undoubtedly prompted law firms to add female lobbyists to their staffs!

It is inspiring to look to some of the women trailblazers in our industry. Their achievements will help ensure all avenues are open to the next generation of women who enter this field. And the values that they bring to their work will provide benefits for all of society.

One example is Geraldine Laybourne, the new president of Disney/ABC Cable Networks. Laybourne is a former schoolteacher, which should come as no surprise considering her immense contributions to the world of children's educational television. She joined Nickelodeon as a program manager when it was a fledgling cable channel, and she worked her way up to network president.

Laybourne balked at the conventional wisdom that kids only watch programs with toy-related characters and shows need only be geared toward boys. Instead, Laybourne used the media to cultivate -- not insult -- kids' intelligence; to sell kids on news, not just on toys; and to reach out to girls, not just to boys. And in the process, she led Nickelodeon to become the top-rated basic cable channel.

Or Lucie Salhany, the president of United Paramount Network. As the first female network president, Lucie broke down barriers for women. Before launching UPN and Fox Broadcasting, Lucie launched her own television career as a secretary at WKBF-TV in Cleveland. Lucie cares very much about the role of broadcasters as public trustees of the airwaves.

Your own Lucille Luongo also began her broadcasting career as a secretary. Through a lot of hard work she steadily climbed the ranks of Katz Media. Though she has been the head of corporate communications for the past six years, she has consistently made time for activities to improve and expand the world of broadcasting. Whether in her capacity as president of AWRT, or vice president of the philanthropic Broadcasters Foundation, or advisory board member of the Caption Center at WGBH, Lucille has added value and meaning to our industry.

Women like Gerry, Lucie and Lucille offer encouragement to other women in communications; doors are opening, and it is possible to ascend the corporate ladder of success. They also demonstrate by their deeds that it is possible to give back to society at the same time.

Ascending Through Ownership

While many women have chosen to ascend as executives of established companies, an increasing number of women believe that owning their own business might be the most direct path -- or the only path -- to the top.

As Judy Estrin, the president of Precept Software said, "If you build your own house, you don't have to worry about it having a glass ceiling." Estrin should know; she was recently named Woman Entrepreneur of the Year by the Alliance for Women Entrepreneurs.

The FCC has taken several steps to increase opportunities for women to ascend as owners.

a. Spectrum Auction Rules

First, we are working to make sure that women are among the winners as we chart out the spectrum for a host of new uses.

We have fought to increase the participation of women in the spectrum auctions. AWRT helped us develop the record in support of our incentives to do this.

The Commission wrote its auction rules to open the doors of opportunity. We provide a chance to compete in a race based on talent. There's no guarantee of success, but there's a place at the starting line for some who never before made it into the gates.

We recently completed our C-Block auctions for personal communications services. At least 95 of the 493 licenses awarded in that auction went to female-owned companies. (I say "at least" because gender identification was optional.)

At first glance, the fact that 19% of the licenses went to companies owned by women may not seem so great. After all, women comprise more than half of the American workforce. And women now own one-third of the small businesses in the country.

But this 19% ownership figure was achieved despite the revised rules that resulted from the Adarand decision, which tightened the level of judicial scrutiny applied to federal affirmative action programs.

I don't need to tell you that women are woefully underrepresented in communications ownership ranks. And that exact figures are hard to find. According to the latest numbers available, only 1.9% of television stations were owned and controlled by women, and only

3.8% of radio stations had female majority shareholders.

So, in that context, I consider the 95 PCS licenses awarded to female-owned businesses to be progress.

b. Telecommunications Development Fund

The auctions hold yet another promise for women -- a second step the FCC is taking to enable women to ascend to ownership.

The Telecom Act has authorized the FCC to transfer the interest earned from auction upfront payments into a new non-profit organization, the Telecommunications Development Fund.

This fund will become a valuable resource for loans and investments in small communications businesses as they seek to start up or expand. The Fund's charter also includes providing financial advice to small businesses.

So far the fund totals almost \$6 million, and of course that figure will rise as more auctions are held.

The members of the fund's board will be named soon. I am confident that the interests of women will be represented as this endeavor moves forward. I encourage you to keep your eyes on the Fund and to think creatively about how it may aid you as a small business entrepreneur.

c. Market Entry Barriers NOI

A third step the FCC has recently taken to further ownership opportunities for women is our proceeding on market entry barriers. Cathy Sandoval, the Director of the FCC's Office of Communications Business Opportunities, will talk more about the market entry barriers Notice of Inquiry later today.

This proceeding, which was mandated by the Telecom Act, asks about the obstacles encountered by small communications businesses in their dealings with the FCC, FCC licensees, and other government agencies. It asks about the impediments to entering the marketplace and accessing capital. It seeks information on barriers unique to women and minorities who are pursuing employment and ownership opportunities in this field.

I am pleased to announce that later this summer the FCC will hold a forum in Washington, D.C. on the market entry barriers inquiry. We will invite testimony from you and other members of the public. Your participation is crucial.

Your individual stories are needed to develop a full record. This record will help the FCC to determine whether or not additional incentives should be made available to women seeking

ownership opportunities, and whether such programs pass constitutional muster.

d. Creating New Opportunities for Entrepreneurs

Finally, the FCC can facilitate the creation of new services based on the technological revolution. Our job at the FCC is to lay the groundwork for new communications businesses to emerge and prosper in a competitive world.

On this day 33 years ago, John F. Kennedy said, "We need men who can dream of things that never were." I'm sure he meant to include all of us in that quote, which recognizes the importance of creativity and vision to the future of America.

And what more innovative industry than telecommunications?

Last month, we proposed to increase bandwidth for low power unlicensed services to connect computers.

Yesterday, the FCC issued an order to allow commercial mobile radio licensees, including PCS holders, flexibility to offer fixed services as well as mobile services -- without coming to the FCC for approval.

And next month we will be finalizing an order launching local multipoint distribution service (LMDS).

All of these rulemakings create opportunities for entrepreneurs to design new businesses.

Earlier I mentioned Judy Estrin, the recipient of a Woman Entrepreneur of the Year award. Estrin's company, Precept, makes software for delivering multimedia content across local and wide area networks.

Estrin shared the award with Mary Ann Byrnes, the chief executive of Corsair Communications. Corsair sells technology for combating cellular phone fraud.

The FCC didn't create these businesses; these women did it on their own.

Working as a Community to Ascend

We all know competition benefits consumers with lower prices and greater selection. Competition also pays public interest dividends in some new and exciting ways.

For example, recently I read about phone cards with advertising on them. Apparently the hot thing this summer is phone cards that feature images of and works from museums. So competition among phone companies -- in this case MCI, NYNEX, Deutsche Telekom -- has moved into new realms, and helped museums to boot.

Museums aren't the only non-profits to benefit. One long distance company donates to a variety of causes a portion of the money you spend on calls.

It's wonderful that these businesses are competing while, at the same time, benefitting the community. With some creative thinking, these two goals needs not be mutually exclusive.

Ascending with Children's Educational Television

Which brings me to my final topic -- the FCC's Children's Television Proceeding, and how we as a national community can ascend by doing right by kids.

Unless you have been filming penguins in the Antarctic for the past two years, you must be aware of the saga of the FCC's efforts to put meat on the bones of the Children's Television Act. I believe that we are close to achieving agreement among the four Commissioners. I hope that a draft of the Report and Order will be circulated later today.

Basically, it will establish a three hour per week safe harbor. If a licensee airs at least three hours of core children's educational and informational programming per week, it has fulfilled its obligations under the CTA.

Core programming is defined as regularly scheduled programming of thirty minutes or more in length that has education as a significant purpose, that is directed at a specific age group, and that is aired between the hours of 7:00 AM and 10:00 PM.

Even if you aired slightly less than three hours of core programming, you still can have the Mass Media Bureau pass on your license renewal, providing that you proffer a basket of programming activities, core and non-core, that weighs about the same as three hours of core. Your other programming efforts must be exceptional -- in excess of the average run in your community. Here, it is relevant that you chose to spend a considerable amount of time and money to produce a terrific core program or specials, and aired short-form programming or interstitials well in excess of your colleagues in the market. You need not sacrifice quality for quantity. You have the flexibility to choose, as long as the level of commitment is roughly equivalent to three hours of core programming.

If you do not qualify for staff approval, then your application goes to the Commission for resolution.

I believe that this approach is faithful both to the language of the Act and to the First Amendment, and that it works for broadcasters, works for parents and children, and works for the Commission.

Once the Commission issues its rules, the work starts in earnest. I believe that good programming must be programming that kids will want to watch. It should be both enlightening and entertaining. The two go together.

I firmly believe -- as Vice President Gore recently predicted -- that this ruling will usher in a new golden era of quality children's programming. Because now that the demand for such programming has been created, the creative talent is there to produce it.

And our rules will help to promote educational programs so more kids will watch. And more advertising dollars will flow.

We must remember, however, that eighty percent of new season prime time programs fail. We should not impose a double standard on children's educational programming and wring our hands if some of these shows do not succeed.

Returning to my message about working together as a community to ascend with our highest values, laboring in the vineyards of kidvid has been a labor of love -- but a labor nonetheless. I believe that the leadership of the broadcast industry did a disservice to its membership by opposing a three-hour processing guideline and not helping to craft a workable solution.

I am so proud of several female broadcasting executives who took a lot of heat trying to work behind the scenes with their colleagues to end the impasse. That's what I mean about bringing higher values to our jobs.

Now is a great opportunity to turn the Children's Television Act into a win for broadcasters and your communities. Work together to find programming concepts that kids like. Work together with the advertising community to underwrite these programs. Work together with your community leaders to promote these programs. You can do it -- I know you will show that leadership.

Conclusion

All of us in the communications industry touch the lives of others. There's an enormous potential for everyone in this room to make some real and lasting changes for the better.

I don't think we need to separate our roles as businesswomen from our roles as concerned parents, grandparents, aunts, sisters, or members of the community. I don't think our values need to change as we leave the living room and enter the board room.

That's how we ascend personally and as a community.

Thank you.

August 8, 1996

**SEPARATE STATEMENT
OF
COMMISSIONER SUSAN NESS**

Re: Children's Television Programming Report and Order

If I had it to do over again, I would concentrate every effort on improving children's television. For, as Gabriela Mistral, the Chilean poet who won the Nobel prize wrote, 'We are guilty of many errors and faults, but the worst crime is abandoning our children.'

-- Newt Minow, former FCC Chairman

Today this Commission embraces the wisdom of former Chairman Minow. At long last, we are clarifying the level of expectation attached to broadcasters' responsibility to serve the educational and informational needs of children. Almost thirty years after Action for Children's Television began its quest to improve broadcasters' service to children, and six years after Congress advanced that effort with enactment of the Children's Television Act, we are now empowering parents, teachers, and broadcasters alike, to act upon their best impulses as guardians of our nation's youth.

Television can be a strong and positive force. It can help children to learn. It can reinforce rather than undermine the values we work so hard to teach our children.

-- President Clinton

Free, over-the-air broadcasting plays a unique role in this country. Even today one-third of households do not subscribe to cable, and these are disproportionately low-income families. Moreover, most of the viewing on cable is of retransmitted broadcast signals, and many cable subscribers do not subscribe to the program tiers or a la carte offerings that feature educational and informational programming.

Broadcasters enjoy special privileges, including the use of valuable public airwaves, which carry with them special responsibilities. Today's ruling reinvigorates that public interest compact. And importantly, today's ruling provides broadcasters with the guidance and the clarity they need to fulfill those responsibilities.

I believe that we need your help, and that of your Commission. I'm probably running in the face of millions of dollars of lobbying, but I believe our industry needs a strong advocate on behalf of the public Whether it's children's

television [for certain other topics], please, keep us all honest. We're capable of doing the right thing. We only need to be reminded. Constantly.

-- Letter from TV station executive

Today we tangibly define the "core" children's programming that all broadcasters must provide, with an emphasis on regularly scheduled programs of standard length, aired during hours that significant numbers of children are in the audience. In turn, we require broadcasters to specify the target audiences and educational purposes of the programs they air to fulfill their Children's Television Act responsibility. We require that these programs be identified as educational at the time they are broadcast and in information provided to television program guides. These measures will facilitate meaningful, real-time dialogue between broadcasters and their communities about children's programs; they will enable parents to select the shows they believe to be most beneficial to their children; and they will reduce the likelihood that this agency will be called upon, at license renewal time, to second-guess assertions that particular shows are educational.

The central feature of today's ruling is a three-hour safe harbor processing guideline, which I have long favored. It offers broadcasters the twin advantages of certainty and flexibility, and it is First Amendment-friendly. It is certain, for it establishes a clear level of expectation: three hours -- a mere two percent of the broadcast week. It is flexible, for broadcasters may exercise their creativity to fulfill their commitment in ways that are not susceptible to purely quantitative evaluation. And it is First Amendment-friendly, precisely because it combines these attributes.

Broadcasters will no longer have to guess what is expected of them, and we will remedy the current marketplace distortions caused by excessively ambiguous rules. Broadcasters who strive to satisfy their responsibility to children will no longer face competitive pressure to emulate those who make only trivial efforts; the three-hour benchmark will apply to everyone.

We hope and expect that many broadcasters will choose to air more than three hours of core programming, and that they will continue to serve children through non-core programming as well. The three-hour benchmark is a floor, not a ceiling. But a three-hour-per-week commitment to core programming is all that is necessary to demonstrate compliance with the Children's Television Act -- and to receive expedited processing by the Mass Media Bureau at license renewal.

As I have often noted, a strict three-hour quota based on standard-length, regularly scheduled programming would be too restrictive. The educational and informational needs of children can also be served by specials, short-form programs, public service announcements, and programs aired outside of the "core" hours. There must be -- and in "Category B" of our new rules there is -- room for broadcasters to offer somewhat less than three hours if their other programming activities, taken together with the core programming, represent an equivalent commitment to meeting the educational and informational needs of children. The focus here is necessarily on programs with a significant purpose of educating children, not general audience programming that has some educational value.

Of course, the "comparable commitment" called for under Category B cannot be evaluated simply by adding up minutes. Educational programs aired before 7:00 a.m. cannot be credited the same as those aired during the hours we have designated as core. Airing shows that are specifically designed to meet the educational and informational needs of children during prime time -- when the potential audience is at its peak -- is an extra effort entitled to extra credit. Category B has the flexibility to weigh these kinds of factors.

Those who distinguish themselves through significant non-core efforts that are specifically designed to educate children, in addition to core efforts of nearly three hours, receive the same expedited staff approval as those who air three hours of core programming. It is important to emphasize that Category B is intended for those whose level of commitment is at least equivalent to the safe harbor, but who choose to discharge their responsibility in slightly different ways. Category B is not a safe haven for those whose commitment is lacking.

The President has been working hard to establish a minimum requirement for television broadcasters: all that we are asking is for three hours a week of educational, child-friendly programming. I don't think that is too much to ask.

-- First Lady Hillary Clinton

The American public has voiced its support for this fortified commitment to quality children's programming. During the course of this proceeding, the Commission received more than 20,000 letters urging stronger implementation of the Children's Television Act. A majority of members of the House of Representatives, a third of the Senate, and even President Clinton wrote in support of a three-hour standard. So did the National PTA, the National Association of Elementary School Principals, the National Association for the Education of Young Children, and numerous other national, state, and local organizations.

Today we are not writing the end of the children's television story; this is only the preface. Now it is up to the writers, directors, actors, network executives, station managers, syndicators, schedulers, advertisers, parents, and other concerned citizens to ensure that the promise to America's children is fulfilled.

I predict that the near-term future will bring an abundance of children's programming that is innovative and exciting, as well as educational and informational. Already, the creative and broadcast communities are rising to the challenge -- and seizing the opportunity. We can reasonably hope that foundations will direct financial resources to the creation of innovative educational shows, that newspapers will find it worthwhile to feature educational listings in prominent ways, that advertisers will find ways to do well by doing good, and that broadcasters will compete as aggressively to serve children for a few hours a week as they do for ratings.

For too long, the children's television debate has focused on the FCC. Now that our job is done, the focus must shift to those who must develop and schedule programming that is educational and entertaining.

Broadcasters, it's time to stand and deliver.