

Before the  
Federal Communications Commission  
WASHINGTON, D.C. 20554

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

NOTICE OF INQUIRY

Adopted: March 2, 2009 Released: March 2, 2009  
Comment Date: April 16, 2009  
Reply Comment Date: May 18, 2009

By the Commission: Acting Chairman Copps, Commissioners Adelstein and McDowell issuing separate statements.

Heading	Paragraph #
I. INTRODUCTION .....	1
II. BACKGROUND AND SCOPE OF INQUIRY .....	2
III. DISCUSSION AND REQUEST FOR COMMENT .....	5
A. Television.....	12
B. Cable and Satellite.....	26
C. Wireless Devices .....	27
D. Non-Networked Devices.....	34
E. Content Available Over the Internet.....	37
F. Blocking Technologies Compatible With Multiple Platforms .....	44
IV. CONCLUSION.....	45
V. ADMINISTRATIVE MATTERS.....	46
VI. ORDERING CLAUSE.....	51

I. INTRODUCTION

1. This *Notice of Inquiry* (“*NOI*”) implements the Child Safe Viewing Act of 2007,<sup>1</sup> adopted December 2, 2008, which directs the Commission to initiate a proceeding within 90 days after the date of enactment to examine “the existence and availability of advanced blocking technologies that are compatible with various communications devices or platforms.”<sup>2</sup> Congress defined “advanced blocking technologies” as “technologies that can improve or enhance the ability of a parent to protect his or her child from any indecent or objectionable video or audio programming, as determined by such parent, that

<sup>1</sup> See Child Safe Viewing Act of 2007 (“Child Safe Viewing Act” or “Act”), S. 602, P.L. 110-452, 122 Stat. 5025 (December 2, 2008).  
<sup>2</sup> *Id.* at Section 2(a). The Act requires that this proceeding be initiated no later than March 2, 2009, which is ninety days following the date of enactment.

is transmitted through the use of wire, wireless, or radio communications.”<sup>3</sup> Congress’s intent in adopting the Act was to spur the development of the “next generation of parental control technology.”<sup>4</sup> In conducting this proceeding, we will examine blocking technologies that may be appropriate across a wide variety of distribution platforms and devices, can filter language based upon information in closed captioning, can operate independently of pre-assigned ratings, and may be effective in enhancing a parent’s ability to protect his or her child from indecent or objectionable programming, as determined by the parent.<sup>5</sup> The Act directs the Commission to issue a report to Congress no later than August 29, 2009 detailing our findings in this proceeding.<sup>6</sup>

## II. BACKGROUND AND SCOPE OF INQUIRY

2. The media environment that children encounter is becoming increasingly complex. In the majority of homes with children, there are at least three television sets,<sup>7</sup> some of which receive signals over the air and others that are linked to cable or satellite services. The average TV household in the United States receives 17 broadcast TV stations and more than 118 television channels.<sup>8</sup> In addition, many homes have DVD players, computers with Internet access, and a variety of mobile devices, such as iPods or other MP3 devices and wireless devices such as cell phones and smart phones, that are capable of playing both audio and video. Each of these media outlets has its own type of password and/or program blocking system, which poses a significant challenge for parents trying to direct or supervise their children’s exposure to video and audio programming.

3. Together with the growth in the kinds of media devices available to children there has been an increase in the amount of time children are exposed to media content. Children six years and younger average almost 2 ½ hours of daily exposure to media content, while children 8 to 18 use media - including television, video players, audio media, video games, and computers - close to five hours each day and often use two or more media simultaneously.<sup>9</sup> As a result of the transition to digital technology and the continuing technological convergence of media, children today can access the same source of content from a variety of media platforms, some of which are portable. Teens can watch on a computer a program that aired on television days earlier and can use a cell phone or other wireless device as a multimedia platform, to surf the Internet and download video and audio programming. The ubiquity of

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<sup>3</sup> *Id.* at Section 2(d).

<sup>4</sup> S. Rep. No. 268, 110<sup>th</sup> Cong., 2<sup>nd</sup> Sess. 1 (2008) (“Senate Report”).

<sup>5</sup> See Child Safe Viewing Act at Section 2(b).

<sup>6</sup> *Id.* at Section 2(c). The Act requires the Commission to issue a report to Congress no later than 270 days after the date of enactment of the Act, which is August 29, 2009.

<sup>7</sup> See Donald F. Roberts and Ulla G. Foehr, *Trends in Media Use*, Children and Electronic Media, The Future of Children (Princeton-Brookings, Spring 2008). See also Donald F. Roberts, Ulla G. Foehr, and Victoria Rideout, *Generation M: Media in the Lives of 8-18 Year-Olds* (Kaiser Family Foundation, March 2005).

<sup>8</sup> See The Nielsen Company, *Television Audience 2007* (June 2008) at 13.

<sup>9</sup> See Roberts and Foehr, *Trends in Media Use*, *supra* note 7. See also Victoria Rideout, Elizabeth A. Vandewater, and Ellen A. Wartella, *Zero to Six, Electronic Media in the Lives of Infants, Toddlers and Preschoolers* (Kaiser Family Foundation, 2003) (children 6 and under spend about the same amount of time each day with media as they do playing outside). CTIA, the wireless industry association, reports that some analysts predict that mobile TV will grow to a \$15 billion market by 2009 and that, as of the third quarter of 2006, nearly 8 million wireless subscribers were capturing videos with their mobile devices. See [www.CTIA.org](http://www.CTIA.org), *100 Wireless Facts*.

media in the lives of children and the portability of many media devices<sup>10</sup> makes direct adult supervision of the content of the media to which children are exposed increasingly difficult. The goal of this proceeding is to examine current and new technologies that can assist parents, as well as other caregivers, to shield children from inappropriate content in this rapidly changing media environment.

4. Section 2(a) of the Child Safe Viewing Act directs the Commission to initiate a notice of inquiry to examine:

- (1) the existence and availability of advanced blocking technologies that are compatible with various communications devices or platforms;
- (2) methods of encouraging the development, deployment, and use of such technology by parents that do not affect the packaging or pricing of a content provider's offering; and
- (3) the existence, availability, and use of parental empowerment tools and initiatives already in the market.

5. Thus, the Act requires that we examine "advanced blocking technologies" currently available across a wide range of media platforms. Section 2(d) of the Act defines the term "advanced blocking technologies" as "technologies that can improve or enhance the ability of a parent to protect his or her child from any indecent or objectionable video or audio programming, as determined by such parent, that is transmitted through the use of wire, wireless, or radio communication."<sup>11</sup> We invite comment on advanced blocking technologies that may be appropriate across various distribution platforms, including wired, wireless, and Internet platforms. We also invite comment on the statutory definition of "advanced blocking technologies." Whereas the Commission has defined the term "indecent" in other contexts, the Act appears to leave determination of what is "indecent" or "objectionable" entirely to the individual discretion of parents. We invite comment on this interpretation and on any other issues regarding the statutory definition of advanced blocking technologies.

6. Section 2(b) of the Act states that the Commission shall consider advanced blocking technologies that:

- (1) may be appropriate across a wide variety of distribution platforms, including wired, wireless, and Internet platforms;
- (2) may be appropriate across a wide variety of devices capable of transmitting or receiving video or audio programming, including television sets, DVD players, VCRs, cable set top boxes, satellite receivers, and wireless devices;
- (3) can filter language based upon information in closed captioning;
- (4) operate independently of ratings pre-assigned by the creator of such video or audio programming; and
- (5) may be effective in enhancing the ability of a parent to protect his or her child from indecent or objectionable programming, as determined by such parent.

7. This language makes it clear that we are to consider blocking technologies appropriate for use on a variety of devices that transmit audio and video programming. The devices specifically identified in

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<sup>10</sup> CTIA estimates that there were over 260 million cellular telephone subscribers in the U.S. as of the summer of 2008. See [www.CTIA.org](http://www.CTIA.org). More than 70 percent of teens between the ages of 13 and 17 have a mobile phone and that number continues to grow. Adam Thierer, The Progress & Freedom Foundation, *Parental Controls & Online Child Protection: A Survey of Tools and Methods* (Ver. 3.1, 2008) at 85-86. See [www.PFF.org](http://www.PFF.org).

<sup>11</sup> Child Safe Viewing Act at Section 2(d).

Section 2(b)(2), such as television sets, DVD players, VCRs, and wireless devices, are capable of transmitting both audio and video programming. We seek comment on whether Congress intended that we examine blocking technologies for content that is audio only (*e.g.*, music), or technologies appropriate for content that combines audio and video (*e.g.*, television programs), or both. The Act does not define the terms “audio” or “video.” The legislative history indicates that Congress was focused primarily on television content. The Senate Report indicates that the Act stems from Congress’s concern with the efficacy of the V-chip, given its limited use by parents, as well as a desire to ensure that blocking capability continues to be available to consumers as technology advances. The Senate Report cites Section 551(e) of the Telecommunications Act of 1996 and notes that that provision requires the Commission to “‘take such action as the Commission determines appropriate’ to assess alternative program blocking technologies and to expand the V-chip requirement, if necessary, to facilitate the use of alternative technologies that may not rely on common ratings.”<sup>12</sup> The Senate Report also explains that the Act requires the Commission to consider technologies that may be appropriate across a variety of content distribution platforms “[i]n recognition of the fact that *television content* is currently being made available over the Internet and over mobile devices.”<sup>13</sup> This language suggests that Congress intended that we focus on television content and the variety of platforms over which such content can be displayed and consider technologies capable of blocking inappropriate audio or video content transmitted as part of such programming. We invite comment on this view. We also note that, although section 2(b)(2) refers to “devices capable of transmitting or receiving video *or* audio programming,”<sup>14</sup> it does not list radios as one of the specific devices for which blocking technology should be considered. Although the list is illustrative and not exhaustive, it appears significant that no audio-only devices are listed. Moreover, the Senate Report discusses television primarily and does not refer to radios, and radios were not discussed during the Senate hearing on the Act.<sup>15</sup> In light of the language of the Act and the legislative history, we invite comment on whether we should examine blocking technology designed for audio content alone in this proceeding, or focus on technology capable of blocking objectionable audio conveyed together with video programming.<sup>16</sup>

8. We also invite comment on how we should interpret the term “video programming” for purposes of this proceeding. Section 602(20) of the Communications Act states that: “the term ‘video programming’ means programming provided by, or generally considered comparable to programming provided by, a television broadcast station.”<sup>17</sup> Is this the appropriate definition to use for purposes of the Child Safe Viewing Act? It seems clear that “video programming” as that term is used in the Child Safe Viewing Act includes, for example, an episode of a television program, whether that program is provided on a television set over the air or via cable or satellite, or provided over the Internet on a computer or wireless device, or provided directly by a wireless carrier. We invite comment, however, on whether the term “video programming” includes such content as videos provided on Internet video hosting sites, such

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<sup>12</sup> Senate Report at 2.

<sup>13</sup> *Id.* (emphasis added).

<sup>14</sup> Child Safe Viewing Act at Section 2(b)(2) (emphasis added).

<sup>15</sup> See Senate Report at 1-2. See also Hearing on the Impact of Media Violence on Children, United States Senate, Committee on Commerce, Science and Transportation, June 26, 2007 (“Senate hearing”).

<sup>16</sup> Satellite Radio offers subscribers the option to block individual channels that frequently use explicit language. See <http://www.xmradio.com/help/index.xmc>. We are not aware of any blocking technology currently available for terrestrial radio programming.

<sup>17</sup> 47 U.S.C. § 602(20). We note that Section 602 lists definitions “for purposes of this title,” meaning Title VI of the Communications Act. See 47 U.S.C. § 602.

as YouTube, and vodcasts<sup>18</sup> of nontraditional video content. In addition, we seek comment on how the use of the term “video programming” in the Act limits the scope of this proceeding.

9. As directed by Section 2(a)(2) of the Act, we invite comment on “methods of encouraging the development, deployment, and use” of advanced blocking technologies.<sup>19</sup> What strategies should be used in this regard and what role should industry, trade organizations, consumer groups, Government and others play in this effort? Section 2(a)(2) also states that the Commission should examine methods of encouraging the development, deployment, and use of advanced blocking technologies “that do not affect the packaging or pricing of a content provider’s offering.”<sup>20</sup> We invite comment on how we should interpret this language. How does the language in Section 2(a)(2) regarding packaging and pricing of a content provider’s offering relate to our mandate under the Act?

10. In addition, Section 2(a)(3) of the Act directs us to examine “the existence, availability, and use of parental empowerment tools and initiatives already in the market.”<sup>21</sup> Although the Act’s focus is advanced blocking technologies and facilitating the next generation of parental control technology, the Senate Report makes clear that Congress was concerned about the V-chip, which is a parental empowerment tool already in the market, and about the low-level of V-chip use. Accordingly, we invite comment specifically on efforts to improve or expand V-chip technology and to encourage increased use of the V-chip by parents. We also seek comment on any other parental empowerment tools that are currently available to consumers, as well as any initiatives to encourage their availability and/or use.

11. Finally, we invite comment on whether we should examine blocking technology for video game players and/or video games. Video game players are not included among the devices specifically identified in Section 2(b)(2), and video games are not mentioned in the Senate Report and were not discussed in the Senate hearing on the Act.<sup>22</sup> However, in light of the popularity of video games among children and concerns expressed regarding their content,<sup>23</sup> we seek comment on whether we should examine methods of controlling access to video games in this proceeding.

### III. DISCUSSION AND REQUEST FOR COMMENT

#### A. Television

12. The Commission has long recognized that television plays a significant role in the lives of American children. Children ages 8 to 18 watch on average more than three hours of television each day,

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<sup>18</sup> Vodcasts are a series of video recordings that can be subscribed to by individuals and automatically downloaded. PBS, for example, makes a number of shows available through vodcasting, which can be downloaded to an individual’s MP4 player and viewed at the convenience of the individual. *See, e.g.*, NOVA | Podcasting | PBS, <http://www.pbs.org/wgbh/nova/rss/podcasting.html>; National Geographic, <http://www.nationalgeographic.com/podcasts/>; ABC News Podcasts, <http://abcnews.go.com/Technology/Podcasting/>.

<sup>19</sup> Child Safe Viewing Act at Section 2(a)(2).

<sup>20</sup> *Id.*

<sup>21</sup> *Id.* at Section 2(a)(3).

<sup>22</sup> We note that a bill currently being considered by the House Committee on Energy and Commerce would require warning labels on video games containing violent content. *See* <http://www.thomas.gov/cgi-bin/query/z?c111:H.R.231>.

<sup>23</sup> Fifty percent of households with children ages 0 to 6 have a video game console, and 83 percent of households with children 8 to 18 have a video game console. *See* Roberts and Foehr, *Trends in Media Use*, *supra* n. 7.

and more than two thirds of children in this age range have a television in their bedroom.<sup>24</sup> Children younger than 8 watch on average 2 hours of television daily and more than one third have a television in their bedroom.<sup>25</sup> Because many children watch television while they engage in other activities, the total amount of time that children are exposed to television content is even greater than statistics regarding their daily television use suggest.<sup>26</sup> Moreover, in spite of the increase in the number of other types of media to which children are exposed, television remains the media of choice among children. Children ages 8 to 18 devote about 50 percent of their total media time to television, while younger children devote about two-thirds of their media time to television viewing.<sup>27</sup> Thus, television remains a primary medium of concern in terms of children's exposure to potentially objectionable content.

13. In 1996, Congress amended Title III of the Communications Act to require the incorporation of blocking technology into television sets.<sup>28</sup> Section 551 of the Telecommunications Act of 1996, also known as the Parental Choice in Television Programming Act, directed the Commission to adopt rules that require certain televisions or devices capable of receiving television signals to "be equipped with a feature designed to enable viewers to block display of all programs with a common rating."<sup>29</sup> In 1998, the Commission adopted rules requiring that, starting in 2000, television sets with screens 13 inches or larger must be equipped with a V-chip.<sup>30</sup> Section 551 of the 1996 Act also directed that, if the industry did not adopt voluntary rules for rating video programming within a year, the Commission should prescribe guidelines and recommended procedures for program ratings.<sup>31</sup> Following the adoption of this provision, the broadcast, cable, and movie industries jointly created a voluntary system for rating television content, known as the TV Parental Guidelines, which the Commission subsequently recognized as meeting the

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<sup>24</sup> *Id.*

<sup>25</sup> *Id.*

<sup>26</sup> *Id.*

<sup>27</sup> *Id.*

<sup>28</sup> 47 U.S.C. § 303(x).

<sup>29</sup> *Id.* (added by Section 551 of the 1996 Act).

<sup>30</sup> See *Technical Requirements to Enable Blocking of Video Programming Based on Program Ratings*, 13 FCC Rcd 11248 (1998). Currently, Section 15.120(b) of the Commission's rules requires that, as of January 1, 2000, all television receivers with a picture screen of 13 inches or larger or with displays in the 16:9 aspect ratio that are 7.8 inches or greater in height, as well as all DTV tuners, manufactured in the U.S. or shipped in interstate commerce must be equipped with a V-chip. See 47 C.F.R. § 15.120(b). Pursuant to this language, DTV converter boxes, which contain digital tuners, must also contain a V-chip, including converter boxes subsidized by a coupon program established by Congress and administered by the National Telecommunications and Information Administration ("NTIA").

<sup>31</sup> Section 303(w) of the Communications Act (added by section 551(b)(1) of the 1996 Act) directed the Commission to "[p]rescribe (1) . . . guidelines and recommended procedures for the identification and rating of video programming that contains sexual, violent, or other indecent material about which parents should be informed before it is displayed to children . . . and (2) with respect to any video programming that has been rated, and in consultation with the television industry, rules requiring distributors of such video programming to transmit such rating to permit parents to block the display of video programming that they have determined is inappropriate for their children." 47 U.S.C. § 303(w). Section 551(e) stated that the provisions codified in section 303(w) would take effect one year after enactment of the 1996 Act, "but only if the Commission determines . . . that distributors of video programming have not, by such date, (A) established voluntary rules for rating video programming that contains sexual, violent, or other indecent material about which parents should be informed before it is displayed to children, and such rules are acceptable to the Commission; and (B) agreed voluntarily to broadcast signals that contain ratings of such programming."

requirements of the 1996 Act.<sup>32</sup>

14. The Parental Guidelines contain both age and content based ratings. The age-based ratings are: TV-Y (All Children); TV-Y7 (Directed to Older Children – age 7 or older); TV-G (General Audience); TV-PG (Parental Guidance Suggested); TV-14 (Parents Strongly Cautioned–may be unsuitable for children under 14); and TV-MA (Mature Audience Only – may be unsuitable for children under 17). The content-based descriptors are: V (violence); FV (fantasy violence in older children’s programming); S (sexual content); D (suggestive dialogue); and L (strong language in programming).<sup>33</sup> The guidelines apply to most television programming, except for news and sports programming and advertisements.

15. As Congress noted in adopting the Child Safe Viewing Act, studies conducted since the V-chip requirements and TV Parental Guidelines were adopted show that the V-chip is not widely used and many parents remain unaware of it.<sup>34</sup> A study conducted from 1999-2001 by the Annenberg Public Policy Center found that only 8 percent of the families studied had the V-chip programmed and were using it.<sup>35</sup> The study showed that many parents are not aware that they have a V-chip and others find that “programming the V-chip is a multi-step and often confusing process.”<sup>36</sup> In two more-recent studies conducted by the Kaiser Family Foundation in 2004 and 2007, the first showed that only 15 percent of parents have used the V-chip,<sup>37</sup> and the second showed that 16 percent of parents used the V-chip.<sup>38</sup> The 2007 Kaiser Family Foundation study showed that more than half of parents who had purchased a television set since 2000, when the requirement that sets over 13 inches be equipped with a V-chip went into effect, were not even aware that they have a V-chip.<sup>39</sup>

16. We invite comment on these studies and any improvements that could be made to the V-chip and the existing TV ratings system to increase their use and effectiveness.<sup>40</sup> Are there ways in which the V-chip could be made easier to use and program? What steps could be taken to increase parental awareness of the V-chip? The V-chip has been referred to as an “orphaned technology,” meaning that no

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<sup>32</sup> The television industry submitted its TV Parental Guidelines to the Commission in 1997; the Commission found them acceptable, and found that the industry had agreed to broadcast signals containing the ratings. *Implementation of Section 551 of the Telecommunications Act of 1996, Video Programming Ratings*, 13 FCC Rcd 8232 (1998) (*TV Parental Guidelines Order*).

<sup>33</sup> The rating system used by the film industry is different from the TV Parental Guidelines. The current film ratings are: G (General Audiences – All Ages Admitted); PG (Parental Guidance Suggested – Some Material May Not be Suitable for Children); PG-13 (Parents Strongly Cautioned – Some Material May be Inappropriate for Children Under 13); R (Restricted – Under 17 Requires Accompanying Parent or Adult Guardian); and NC-17 (No One 17 and Under Admitted).

<sup>34</sup> See Senate Report at 2.

<sup>35</sup> The Annenberg Public Policy Center, *Parent’s Use of the V-Chip to Supervise Children’s Television Use*.

<sup>36</sup> *Id.*

<sup>37</sup> See *Parents, Media and Public Policy: A Kaiser Family Foundation Survey* (Fall 2004).

<sup>38</sup> See *Parents, Children & Media: A Kaiser Family Foundation Survey* (June 2007) (“2007 Kaiser Family Foundation Study”) at 10.

<sup>39</sup> *Id.* at 9.

<sup>40</sup> In its 2007 report on television violence, the Commission concluded that the V-chip is of limited effectiveness in protecting children from violent television content. See *In the Matter of Violent Television Programming And Its Impact on Children*, 22 FCC Rcd 7929, 7942, ¶ 29 (2007).

entity has a financial incentive to promote its use.<sup>41</sup> What role should industry or the government play in promoting the V-chip? What kinds of promotions would be most effective and who should bear the cost? We note that the broadcast networks have previously joined with the Advertising Council to air some public service campaigns promoting the V-chip.<sup>42</sup> Was this campaign successful?

17. We also invite comment on the current ratings system. The 2007 Kaiser Family Foundation study also showed that, although more than 80 percent of parents have heard of the TV ratings, most do not understand what they mean.<sup>43</sup> Only 30 percent of parents with children between 2 and 6 could name any of the ratings used for children's programs (TV-Y, TV-7, or TV-G). Only 11 percent of parents with children in this age range knew that the content rating FV had anything to do with violence, and 9 percent thought it meant "family viewing."<sup>44</sup> More than half of parents of older children that had heard of the TV ratings understood the meaning of the TV-14 and TV-MA age-based ratings and the "V" content descriptor, but only 36 percent of these parents understood that "S" designates a show with sexual content and only 2 percent knew that "D" indicates suggestive dialogue.<sup>45</sup> We invite comment on these studies and on ways in which awareness of the current ratings system could be improved.

18. We also seek comment on the extent to which programming is rated, using both the age-based ratings as well as the content descriptors, and on whether the ratings are applied accurately. Some have criticized the application of the TV Parental Guidelines. In a 2007 report, the Parents Television Council ("PTC") examined all prime time entertainment programming on the six broadcast networks during the November 2006 and February 2007 sweeps period.<sup>46</sup> In its report, PTC states that 99 percent of the programs they examined were rated either TV-PG or TV-14, meaning they were deemed suitable for children as young as 14, despite the fact that some programs contained mature subject matter.<sup>47</sup> According to PTC, none of the programs examined received the TV-MA rating for mature audiences, and forty percent or more of the programs lacked one or more of the appropriate content descriptors for suggestive dialogue ("D"), sexual ("S") or violent content ("V"), or strong language ("L").<sup>48</sup> PTC argues that the problems in applying the TV Parental Guidelines stem from the fact that there are no guidelines dictating how the ratings should be applied and that each network rates its own programs.<sup>49</sup> Other studies have also indicated that the ratings may not be correctly applied and that parents do not believe that programs are rated accurately.<sup>50</sup> We seek comment on these views. Are broadcasters and other

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<sup>41</sup> See Comments of Vicky Rideout, Vice President and Director of the Program for the Study of Entertainment, Media and Health at the Kaiser Family Foundation, Children and Television Media Policy Roundtable Discussion, April 2, 2003.

<sup>42</sup> See The New York Times, *The Media Business: Advertising – Addenda; An Effort to Promote V-Chip for Television*, March 31, 2004.

<sup>43</sup> 2007 Kaiser Family Foundation Study at 8.

<sup>44</sup> *Id.*

<sup>45</sup> *Id.* at 9.

<sup>46</sup> Parents Television Council Special Report, *The Ratings Sham II* (April 16, 2007).

<sup>47</sup> *Id.* at 1. According to PTC, one of the programs examined that did not receive a TV-MA rating was an episode of *C.S.I. Miami* in which a woman died of asphyxiation during an oral rape. *Id.*

<sup>48</sup> *Id.*

<sup>49</sup> *Id.*

<sup>50</sup> See Notice of Inquiry, *In the Matter of Television Violence and Its Impact on Children*, 19 FCC Rcd 14394, 14401-2, ¶ 17 (citing Kaiser Family Foundation studies from 1998 and 2001).



programming distributors transmitting the ratings information, as they agreed to do in 1997?

19. As noted above, commercials are currently not rated using the TV Parental Guidelines.<sup>51</sup> The Commission and others have raised concerns about the airing of inappropriate or adult-oriented commercials during programming directed to or widely viewed by children.<sup>52</sup> We invite comment on the extent to which inappropriate commercials are aired in programming viewed by children and on possible solutions to this problem. Could commercials be rated so that the V-chip or other technology could be used to filter out commercials with inappropriate content? What role should the Government, industry, or third-parties play in this effort?<sup>53</sup>

20. We invite comment on blocking technology that operates based on ratings established by an entity other than the creator of the programming. Section 2(b) of the Act directs us to examine advanced blocking technologies that “operate independently of ratings pre-assigned by the creator of such video or audio programming”<sup>54</sup> and that enhance the ability of a parent to protect his or her child from indecent or objectionable programming “as determined by such parent.”<sup>55</sup> Are there technologies currently available or in development that give parents a greater role in determining how programs should be rated? How could the Commission encourage the development, deployment, and use of such technology?

21. Other parties have also called for improvements in the V-chip and the TV ratings. In a November 2008 letter, the Benton Foundation, Common Sense Media, and the Coalition for Independent Ratings (“CFIRS, *et. al.*”) urged the Commission to take steps to ensure that digital televisions can respond to “improved content ratings that could help parents better select what content enters their homes.”<sup>56</sup> CFIRS, *et. al.* noted that the current ratings system does not allow parents to block programs that “glamorize smoking, alcohol abuse or illegal drug use” and does not allow ratings in languages other than English. CFIRS, *et. al.* also noted that several new TV ratings systems have been developed since the present guidelines that would give viewers a choice of which guidelines to use.<sup>57</sup> CFIRS, *et. al.* argued that V-chip requirements should ensure that there is ample space for future generations to extend the current ratings and develop new ones.<sup>58</sup> The concept of a V-chip that can accommodate ratings other

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<sup>51</sup> See, *supra*, ¶ 14.

<sup>52</sup> See, e.g., *Report and Order and Further Notice of Proposed Rule Making, In the Matter of Children’s Television Obligations of Digital Television Broadcasters*, 19 FCC Rcd 22943, 22964-66, ¶¶ 60-65 (2004). See also *Pediatrics, Children, Adolescents, and Advertising*, Vol. 118, No. 6 (Dec. 2006), <http://pediatrics.aappublications.org/cgi/content/full/118/6/2563>.

<sup>53</sup> In this regard, we note that the Commission’s rules limit the amount of “commercial matter” that may appear in programming directed to children ages 12 and under to no more than 12 minutes per hour on weekdays and no more than 10 ½ minutes per hour on weekends. See 47 C.F.R. § 73.670(a). The rules exclude from the definition of “commercial matter” promotions for any children’s or other age-appropriate programming appearing on the same channel and promotions for children’s educational and informational programming appearing on any channel. *Id.* at Note 1. This rule discourages the airing during programs directed to children 12 and under of commercials that may contain inappropriate content, as those commercials would be considered “commercial matter” and count toward the commercial limits.

<sup>54</sup> Child Safe Viewing Act at Section 2(b)(4).

<sup>55</sup> *Id.* at Section 2(b)(5).

<sup>56</sup> See Letter from The Benton Foundation, Common Sense Media, and the Coalition for Independent Ratings to Chairman Kevin J. Martin and Commissioners Deborah T. Tate, Michael J. Copps, Robert M. McDowell, and Jonathan S. Adelstein, dated November 7, 2008. A copy of the letter can be found in MB Docket No. 03-15

<sup>57</sup> *Id.*

<sup>58</sup> *Id.*

than the existing TV Parental Guidelines is generally referred to as the “open V-chip.” The Commission has generally endorsed this concept by recognizing that the ability to modify the current rating system is beneficial and by requiring that television sets have the capacity to respond to changes in the TV ratings.<sup>59</sup> If the V-chip could accommodate multiple program ratings created, for example, by different ratings services, how would this system be implemented? How would multiple ratings be incorporated into programming? How would parents select a rating system for use on their television set and how could a V-chip offering this degree of choice be made easy for parents to use? Could parents decide to use more than one rating system on the same television set and, if so, how would parents move from one system to another?

22. We invite comment on whether there are intellectual property concerns that could affect efforts to improve the V-chip and the current ratings system, as well as efforts to develop an “open V-chip” and other next-generation parental control technologies. There is a patent on the technology that may be necessary to enable television manufacturers to implement an open V-chip regime whereby television receivers must respond to multiple Ratings Region Tables (“RRTs”) capable of containing expanded ratings systems and/or multiple ratings systems.<sup>60</sup> Licenses for this technology are being offered through Tri-Vision International Limited (“Tri-Vision”), a Canadian company. Would the Tri-Vision patent apply in a situation in which a television set could respond to multiple RRTs, therefore providing capacity for the set’s V-chip to process additional and/or more-detailed ratings systems? Are the licensing terms that Tri-Vision offers reasonable? What steps should be taken to ensure that patent issues do not discourage manufacturers from including blocking technology in consumer equipment? We also invite comment on what, if any, alternative ratings systems for use in conjunction with the V-chip are available or are in the process of being developed.

23. Apart from the V-chip, we invite comment on any other advanced blocking technologies for television either currently in existence or under development. We note that TiVo’s KidZone permits parents to both block and select and/or record programming for their children based on a list of recommended programs developed by a number of independent organizations, including Common Sense

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<sup>59</sup> See *Second DTV Periodic Report and Order*, 19 FCC Rcd 18279, 18347-48 (2004). In their November 2008 letter, CFIRS, *et al.* urged the Commission to take action on an issue pending in the Commission’s Second DTV Periodic Review proceeding. Ratings systems are carried in Rating Region Tables (“RRTs”). The Advanced Television Systems Committee (“ATSC”), which maintains the list of rating region assignments, originally assigned 0x01 (RRT 1) to the United States. RRT 1 carries the current U.S. rating system (the TV Parental Guidelines and MPAA ratings). Prior to the *Second DTV Periodic Report and Order*, television sets were designed to convey only the ratings information contained in RRT 1. In the *Second DTV Periodic Report and Order*, the Commission stated that “[w]e generally believe that the ability to modify the current content advisory system is beneficial” and that “to ensure the ability to modify the content advisory system, receivers must be able to process newer RRT version numbers or use new rating region codes as suggested by ATSC.” *Id.* The Commission also revised 47 C.F.R. § 15.120(d)(2) to, among other things, state that “[d]igital television receivers shall be able to respond to changes in the content advisory system.” 47 C.F.R. § 15.120(d)(2). Subsequent to the adoption of the *Second DTV Periodic Report and Order*, the ATSC reserved rating region code 0x05 (RRT 5) for an unspecified alternative U.S. rating system or systems. The Consumer Electronics Association (“CEA”) filed a petition for reconsideration of the *Second DTV Periodic Report and Order* arguing that receivers should be required to respond to only one additional RRT - RRT 5 - in addition to RRT 1. See Petition for Reconsideration and/or Clarification of CEA, filed Nov. 3, 2004, in MB Docket No. 03-15. CFIRS and other parties have filed oppositions to the CEA Petition, arguing that television sets should not be limited to only one additional RRT and that more capacity is needed to accommodate additional and improved ratings systems. The CEA Petition remains pending. The specific issue raised in the CEA Petition regarding RRTs will be resolved in the Second DTV Periodic Review proceeding.

<sup>60</sup> See CEA Petition.

Media, Discovery Kids, and the Parents Television Council.<sup>61</sup> How does TiVo compare to the V-chip in terms of ease of use and effectiveness? Are there any data regarding actual use of KidZone by parents? Are other entities offering similar devices? TiVo technology permits parents not only to screen-out content parents find inappropriate, but also to select specific content based on recommendations from a number of different entities. Does any other technology offer the ability to select desired programming as well as screen-out objectionable programming?

24. Pursuant to Section 2(b)(3) of the Act, we also seek comment on advanced blocking technologies that “can filter language based upon information in closed captioning.”<sup>62</sup> This language seems to focus on technology that uses closed captions to identify inappropriate content in television programs. One technology being offered now is TVGuardian, which operates by scanning closed captioning, muting the audio part of the program when offensive phrases appear, and displaying a profanity-free version of the phrase at the bottom of the TV screen.<sup>63</sup> We invite comment on this technology and any others that use closed captioning as the basis for screening programming. We note that closed captions are not always synchronized perfectly with the audio, and thus the captions may appear slightly before or after the time words are spoken as part of the on-screen program. We invite comment on whether and how this lack of synchronization affects the use of captions to block inappropriate content.

25. Finally, what methods would be most effective in encouraging the development and use of advanced blocking technology for television? What role should the industry, trade associations, consumer organizations, and Government play in this regard? Do private entities have sufficient incentive to develop advanced blocking technologies for commercial use? What other parental empowerment tools and initiatives are available to help parents protect their children from programming that they consider objectionable or indecent?

## **B. Cable and Satellite**

26. We invite comment on the additional parental control options available to cable and satellite subscribers. What tools are available to parents, how easy are these tools to use, and how widely are they employed by parents to control what their children watch? Like the V-chip, cable set top boxes and satellite receivers permit parents to block programs that contain certain ratings under the TV Parental Guidelines. Are these boxes easier to use than the V-chip? In addition, digital cable set-top boxes and satellite receivers offer the option of blocking entire channels or blocking individual programs. We are interested in any research that compares cable and satellite blocking devices to the V-chip, particularly in terms of ease of use and popularity with parents. We also invite comment on blocking technology for digital video recorders (DVRs). Although these devices are not specifically mentioned in Section 2(b)(2) of the Act, DVRs are generally incorporated into or connected to a cable or satellite set top box and are an increasingly popular alternative to VCRs, which are specifically mentioned in Section 2(b)(2).<sup>64</sup> We note that TiVo, which is one brand of DVR, provides equipment that can be used in conjunction with cable and satellite service, thereby providing parents with access to the KidZone product described above.<sup>65</sup> How

<sup>61</sup> See <http://www3.tivo.com/tivo-tco/mix/kzindex.do>.

<sup>62</sup> Child Safe Viewing Act at Section 2(b)(3).

<sup>63</sup> See <http://tvguardian.com/gshell.php>. The website notes that TVGuardian works with virtually all pre-scripted TV shows and DVD and VHS videos, but it does not work with live programs, such as news, sporting events, talk shows, and day-time dramas.

<sup>64</sup> We invite comment on blocking technology for VCRs and DVD players in section III.D., *infra*.

<sup>65</sup> TiVo manufactures and retails DVRs that can be used in conjunction with broadcast, cable, and satellite services.

do the options provided by TiVo and any other third-party DVR compare to the parental controls available in cable set top boxes and satellite receivers? In addition to technology currently available, are there any new technologies under development or on the horizon for satellite or cable? We also invite comment on how we could encourage the development of new technologies for these services, as well as their use by parents.

### C. Wireless Devices

27. Providing parents and caregivers with tools to protect children from content they deem inappropriate may present additional challenges on wireless devices, which are typically operated by children away from the purview of their parents. Further, the devices themselves may be limited in the type of software or applications that can be added directly by the consumer. We note that the type of content available over wireless devices differs from that available over broadcast television, cable, or satellite in that consumers can view both carrier-provided content through packaged offerings (similar to broadcast, cable, and satellite TV) and outside, third-party content (similar to wireline broadband Internet service). Therefore, parents may need to have access to multiple types of advanced blocking technologies or ensure that the advanced blocking technologies can filter out objectionable content from multiple sources.

28. Video programming and other content available on wireless devices includes both content offered by the wireless provider itself, such as streamed versions of certain cable TV channels, music videos, sports, news clips, TV programs, and short TV episodes made exclusively for mobile phones (“mobisodes”), as well as third-party content obtained via the Internet.<sup>66</sup> We seek comment on any blocking technology currently available for content, particularly video programming, on wireless devices, as well as ways of encouraging the development, deployment, and use of such technology. We also invite comment on the availability of any other parental empowerment tools related to wireless devices.

29. The wireless industry has developed child protection measures both for content offered by wireless providers as well as content available over the Internet on wireless devices. CTIA and participating wireless carriers have voluntarily adopted Carrier Content Classification and Internet Access Control Guidelines, which provide for voluntary classification standards for “Carrier Content” (those materials that reside with a carrier’s managed content portal or third party content whose charges are included on a carrier’s bill).<sup>67</sup> Under the Guidelines, Accessible Carrier Content is available to consumers of all ages while Restricted Carrier Content is available to those 18 or older or to younger consumers with

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<sup>66</sup> Audio-only programming is also available on wireless devices, including full versions of songs and song clips and noises to be used as ring tones and ringback tones.

<sup>67</sup> See Letter from Paul W. Garnett, CTIA – The Wireless Association, to Marlene H. Dortch, Secretary, FCC, WT 07-195 (Jun. 26, 2008) at 3. In November 2005, CTIA announced that it had developed guidelines for the classification of all content that is offered and controlled by its wireless members to “proactively provide tools and controls to manage wireless content offered by the carriers or available via Internet-enabled wireless devices.” Those guidelines include blocking mechanisms that can be adopted on a carrier-by-carrier basis to limit access by minors to content deemed restricted under the CTIA guidelines. See Wireless Carriers Announce ‘Wireless Content Guidelines,’ CTIA Press Release, November 8, 2005, <http://ctia.org/media/press/body.cfm/prid/1565>. For a complete discussion of the Wireless Content Guidelines, see “CTIA’s Rating of Content to Mobile Phones: The Wireless Industry Initiative” at <http://www.ctia.org/advocacy/index.cfm/AID/10299>. The guidelines can be found at [http://www.ctia.org/consumer\\_info/service/index.cfm/AID/10394](http://www.ctia.org/consumer_info/service/index.cfm/AID/10394). According to CTIA, “All the major wireless providers and many others offer consumers tools to limit content at no charge, and parents can search their carrier’s website to find information about the parental controls available to them.... [P]arents of young wireless users have the ability to: request that Internet access capabilities be turned off, filter web content, and block unwanted text messages or phone calls.” Letter from Paul W. Garnett, CTIA, to Marlene H. Dortch, Secretary, FCC, WT 07-195 (Jun. 26, 2008) at 3.

specific parental authorization.<sup>68</sup> Each carrier is responsible for its implementation of access controls, including age-verification mechanisms, and those carriers agreeing to these voluntary guidelines have pledged not to offer any Restricted Carrier Content until they have provided controls to allow parents to restrict access to this type of content. Restricted Carrier Content includes intense profanity, intense violence, graphic depiction of sexual activity or sexual behaviors, nudity, hate speech, graphic depiction of illegal drug use, and any activities that are restricted by law to those 18 years of age and older, such as gambling and lotteries.<sup>69</sup> Several larger carriers have already announced the institution of guidelines to block inappropriate content through parental control services.<sup>70</sup> For example, Verizon Wireless allows parents to filter content by certain age categories (7+ years old, 13+ years old, 17+ years old), which includes content on its Mobile Web service.<sup>71</sup>

30. The wireless industry is also developing “Internet Content Access Control” technologies to enable account holders to filter and block access to specific websites. According to CTIA, all major carriers currently provide consumers with the ability to block all Internet access on their devices. In addition, wireless companies are researching solutions to provide controls with the ability to limit specific Internet content or sites on consumers’ devices, which would be implemented on a carrier-by-carrier basis.

31. We invite comment on these methods for controlling access to content available over wireless devices. Are these controls effective and easy to understand and activate by parents? To what extent are these parental control technologies used? Both the Carrier Content guidelines and the Internet Content Access Control guidelines filter content using age-based categories as defined by the industry rather than by consumers.<sup>72</sup> How effective or accurate are these content ratings? How do these guidelines utilize existing standards, such as the TV Parental Guidelines or the MPAA rating system? Are there any technologies for wireless devices either currently in existence or in development that operate with a ratings system developed by an entity not associated with the content creator or the industry?

32. In addition to the blocking technologies discussed above, we also seek information on any other types of blocking or filtering technologies currently available to consumers or other technologies currently in development for use on wireless devices. We note that technology is available on some wireless devices that permits parents to view the information children receive over these devices.<sup>73</sup> How

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<sup>68</sup> See “CTIA’s Rating of Content to Mobile Phones: The Wireless Industry Initiative” at <http://www.ctia.org/advocacy/index.cfm/AID/10299>.

<sup>69</sup> See “Wireless Content Guidelines Classification Criteria” at <http://ctia.biz/media/index.cfm/AID/10395>.

<sup>70</sup> See, e.g., AT&T’s “SmartLimits” and “Media Net” at [www.wireless.att.com/learn/articles-resources/parental-controls.jsp](http://www.wireless.att.com/learn/articles-resources/parental-controls.jsp); Verizon Wireless’ “Chaperone Service” at [www.verizonwireless.com/b2c/splash/chaperone/splash.jsp](http://www.verizonwireless.com/b2c/splash/chaperone/splash.jsp) and [www.verizonwireless.com/parentalcontrols](http://www.verizonwireless.com/parentalcontrols); Sprint Nextel Web Access at [www1.sprintpcs.com/explore/ueContent.jsp?scTopic=parentalControl](http://www1.sprintpcs.com/explore/ueContent.jsp?scTopic=parentalControl); T-Mobile WebGuard at [http://www.t-mobile.com/shop/addons/services/information.aspx?PAsset=FamilyWireless&tp=Svc\\_Tab\\_FW101ProtectYourKids](http://www.t-mobile.com/shop/addons/services/information.aspx?PAsset=FamilyWireless&tp=Svc_Tab_FW101ProtectYourKids); and Alltel’s Web Controls at [https://alltel.custhelp.com/cgi-bin/alltel.cfg/php/enduser/std\\_alp.php?p\\_sid=epevp5Ni](https://alltel.custhelp.com/cgi-bin/alltel.cfg/php/enduser/std_alp.php?p_sid=epevp5Ni), search: “Web Controls.”

<sup>71</sup> See [https://wbillpay.verizonwireless.com/vzw/nos/uc/uc\\_content\\_filter.jsp](https://wbillpay.verizonwireless.com/vzw/nos/uc/uc_content_filter.jsp).

<sup>72</sup> See “CTIA’s Rating of Content to Mobile Phones: The Wireless Industry Initiative” at <http://www.ctia.org/advocacy/index.cfm/AID/10299>.

<sup>73</sup> For example, eAgency, Inc. has software that can be installed on the Blackberry Pearl to track and monitor text from email and text messages and photos. eAgency also plans to offer a feature that can be viewed remotely by parents or other adults for the purpose of seeing which Web sites are being visited on phones for which the adult is responsible. See also *FCC Twelfth Annual Video Competition Report*, MB Docket No. 05-255, February 10, 2006, (continued....)

useful and widely used is this technology? We also invite comment on any other parental empowerment tools currently available for wireless technology. How do the features that make mobile, wireless devices unique (*e.g.*, the size of the device/screen, the speed of broadband service on a mobile device, system requirements) affect how advanced blocking technologies operate for these devices? What are the pros and cons of using blocking technologies through the network versus via the handset? How does the type of filter (network- or handset-based) affect the user experience (*e.g.*, ease of use, ability to personalize or change the settings on the filter, etc.)? Further, as wireless carriers move toward open platforms,<sup>74</sup> how will blocking and filtering be affected? For instance, do parties expect there to be additional blocking applications available that are being created and marketed by third parties? Do third-party application providers need open platforms in place in order to provide these advanced blocking technologies to consumers, or do application providers generally provide their products to the carriers themselves rather than directly to end users? Do consumers using licensed wireless service have to purchase or request free blocking or filtering from their wireless providers, or can they purchase or otherwise obtain freely these technologies themselves and load applications onto their wireless devices?

33. We also seek comment on how to encourage the development, deployment, and use of blocking and filtering technologies on wireless devices by parents. To the extent wireless providers already have tools available to help parents protect children from inappropriate content, how are these providers educating consumers and publicizing the availability and convenience of such tools? How could trade organizations or consumer organizations publicize the development, deployment, and use of filtering technologies? In addition, what role should the Government play in ensuring that blocking and filtering tools are made available to parents so that children can be shielded from inappropriate content?

#### **D. Non-Networked Devices**

34. Section 2(b)(2) of the Act directs the Commission to examine advanced blocking technologies that “may be appropriate across a wide variety of devices capable of transmitting or receiving video or audio programming, including ... DVD players [and] VCRs.”<sup>75</sup> As directed by this section of the Act, we inquire as to the existence and availability of blocking technologies for non-networked devices capable of receiving video or audio programming, particularly DVD players and VCRs.<sup>76</sup> We note that most DVD players do not contain a tuner and therefore are not themselves capable of transmitting or receiving video or audio programming. Nonetheless, as these devices are specifically identified in the Act, we seek comment on blocking technologies for these devices.

35. DVD players and VCRs play a major role in the lives of many American families – DVD players are now owned by about 84% of American households<sup>77</sup> and VCRs, while in decline, are still

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at 4 (advanced set-top boxes and digital video recorders, and the introduction of new mobile video services, consumers are now able to maintain more control over how they receive information).

<sup>74</sup> In the *700 MHz Second Report and Order*, 22 FCC Rcd 15289 (2007), the Commission adopted an “open platform” rule that requires licensees of the Upper 700 MHz Band C Block to allow consumers to use the handset of their choice and download and use the applications of their choice, subject to certain reasonable network management conditions that allow the licensee to protect the network from harm. Following adoption of this rule, some wireless carriers have announced that they will voluntarily make their networks more open to devices and/or applications.

<sup>75</sup> Child Safe Viewing Act at Section 2(b)(2).

<sup>76</sup> Although DVD players and VCRs are the only non-networked devices mentioned in the Child Safe Viewing Act, we note that other non-networked devices, such as digital audio players and portable media players, are capable of receiving video and/or audio programming.

<sup>77</sup> See Consumer Electronics Association, [http://www.ce.org/Research/Sales\\_Stats/1216.asp](http://www.ce.org/Research/Sales_Stats/1216.asp).



owned by the great majority of American households.<sup>78</sup> However, unlike wired, wireless, or Internet platforms, which directly distribute video or audio content to consumers, DVD players and VCRs are dependent on video discs or videotapes to distribute content.<sup>79</sup> This situation gives parents greater control over DVD players and VCRs than they have over other distribution platforms. Specifically, parents have the ability to purchase or rent for their children age-appropriate content for DVD players and VCRs and accumulate libraries of such content to be used at either their, or their children's, discretion. Nonetheless, there may remain a legitimate concern - particularly for older children - to the extent that children make their own content purchases for DVD players and VCRs or are given inappropriate videotapes or video discs by other children or adults. Thus, there may be a role for blocking technologies for these devices.

36. We invite comment on whether blocking technologies exist or are under development for DVD players and VCRs and, if so, how these technologies compare to blocking technologies available for other distribution platforms and networked devices. We also seek comment on whether blocking technologies exist for similar non-networked devices, such as digital audio players (MP3 players) and portable media players. If blocking technologies exist for non-networked devices, to what extent are they used by parents? What methods would be effective in encouraging the development and use of such technology? Movies on DVDs and video tapes are generally rated using the MPAA rating system. Is this rating system effective?

#### **E. Content Available Over the Internet**

37. Section 2(b)(1) of the Act directs us to consider advanced blocking technologies that “may be appropriate across a wide variety of distribution platforms, including ...Internet platforms.”<sup>80</sup> Video and audio programming is increasingly available on the Internet.<sup>81</sup> Many sources of video and audio programs traditionally seen on television are making their content available over the Internet,<sup>82</sup> and third party online services such as Hulu permit individuals to watch television programs and movies that are streamed to computer screens.<sup>83</sup> Other sites such as iTunes provide a download-on-demand service, permitting individuals to download TV shows and movies to their computers or from a computer to

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<sup>78</sup> See Adam Thierer, “Parental Control Perfection? The Impact of the DVR and VOD Boom on the Debate Over Content Regulation,” The Progress and Freedom Foundation, October 20, 2007, at Exhibit 1.

<sup>79</sup> Content for DVD players must be obtained by using pre-recorded video discs, whereas content for VCRs may be obtained either by using pre-recorded videotapes or by recording on blank videotapes.

<sup>80</sup> Child Safe Viewing Act at Section 2(b)(1).

<sup>81</sup> See *Online TV Grows in Popularity*, TNS (Sept. 4, 2008), <http://www.tnsglobal.com/news/news-CA47962D13C744DD9A4BEDCAA07AF42E.aspx>; Greg Sandoval, *Study: Web-video viewers to top 1 billion by 2013*, CNET (May 27, 2008), [http://news.cnet.com/8301-10784\\_3-9952659-7.html?part=rss&subj=news&tag=2547-1\\_3-0-20](http://news.cnet.com/8301-10784_3-9952659-7.html?part=rss&subj=news&tag=2547-1_3-0-20); *Americans View 34 Percent More Online Videos in November 2008 Compared to Year Ago*, comScore Press Release (Jan. 5, 2009), <http://www.comscore.com/press/release.asp?press=2660>.

<sup>82</sup> See, e.g., CBS Video, <http://www.cbs.com/video/>; ABC.com <http://abc.go.com/>; FOX Broadcasting Company <http://www.fox.com/>; NBC Official Site <http://www.nbc.com/>; PBS Video <http://www.pbs.org/video/>; Major League Baseball MLB.TV, <http://mlb.mlb.com/mlb/subscriptions/index.jsp>.

<sup>83</sup> Hulu, for example, is a joint effort of NBC Universal, News Corp, and Providence Equity Partners. It aggregates TV shows and movies which can be streamed to an individual's computer in full screen mode, making the computer screen comparable to a TV screen experience. The selection of content is large, can be viewed at the convenience of the individual, and is advertising supported. See Hulu <http://www.hulu.com/>; Greg Sandoval, *Hulu Sells Out Ad Inventory, more on the way*, CNET (Apr. 9, 2008), [http://news.cnet.com/8301-10784\\_3-9914907-7.html](http://news.cnet.com/8301-10784_3-9914907-7.html). See also Veoh <http://www.veoh.com/>; Joost <http://www.joost.com/>.

devices such as an iPod or iPhone.<sup>84</sup> Some programs are also available as podcasts and vodcasts which can be subscribed to, downloaded on demand, and played on computers, wireless devices, and MP3 (audio) or MP4 (video) players.<sup>85</sup> Some video hosting services, such as YouTube, permit anyone to upload videos that can be streamed to viewers, thereby permitting Internet content to be created by individuals not associated with traditional television content. In addition, peer-to-peer applications<sup>86</sup> have likewise facilitated the distribution of content over the Internet.<sup>87</sup> As discussed in paragraph 8, *supra*, we invite comment on what video found on the Internet should properly be considered "video programming" for purposes of this proceeding.<sup>88</sup>

38. The safety of children online has been a primary concern of families and Congress since the Internet was first opened to public use. Congress has passed several laws seeking to protect children from Internet content,<sup>89</sup> and has requested several reports on child online safety.<sup>90</sup> There have also been a

<sup>84</sup> See, e.g., Apple – iPod – iTunes, <http://www.apple.com/itunes/>; Amazon Video on Demand, <http://www.amazon.com/Video-On-Demand/b?ie=UTF8&node=16261631>; Xbox Live <http://www.xbox.com/en-US/live/>.

<sup>85</sup> Generally, podcasting is a series of audio recordings that can be subscribed to by individuals using RSS ("Really Simple Syndication"). Having subscribed, whenever the content creator releases a new recording, that recording will automatically be downloaded to the individual's computer or MP3 player. Likewise, vodcasts are a series of video recordings that can be subscribed to by individuals and automatically downloaded. Similar to podcasts and sometimes referred to as "video podcasts," the vodcast file format generally differs from the podcast file format, and requires different software and hardware to play.

<sup>86</sup> Peer-to-peer applications allow individual computer users to transmit data directly to another user, without the use of an intermediate network server. Individuals use peer-to-peer applications as an alternative means of transmitting content and programs over the Internet. According to the Organization for Economic Cooperation and Development ("OECD"), "Peer-to-peer is a communication structure in which individuals interact directly, without going through a centralized system or hierarchy." OECD Glossary of Statistical Terms (Aug. 29, 2003), <http://stats.oecd.org/glossary/detail.asp?ID=6095>. See also Clay Shirky, *What is P2P . . . And What Isn't*, O'Reilly OpenP2P (Nov. 24, 2000), <http://www.openp2p.com/pub/a/p2p/2000/11/24/shirky1-whatisp2p.html>; Ed Felten, *More on Berman-Coble's Peer-to-Peer Definition*, Freedom to Tinker (Sept. 10, 2002), <http://www.freedom-to-tinker.com/blog/felten/more-berman-cobles-peer-peer-definition>; Rudiger Schollmeier, *A Definition of Peer-to-Peer Networking for the Classification of Peer-to-Peer Architectures and Applications*, Computer Society (2002).

<sup>87</sup> See, e.g., BitTorrent, <http://www.bittorrent.com/>; Kazaa, <http://www.kazaa.com/>; Limewire, <http://www.limewire.com/>.

<sup>88</sup> For example, video gaming systems permit users to play with and compete against other gamers across the country and around the world via the Internet. What impact, if any, does the interface between video gaming systems and the Internet have on children's online safety?

<sup>89</sup> See, e.g., Telecommunications Act of 1996, Sec. 501 *et. seq.*, The Communications Decency Act, Pub. L. 104-104, 110 Stat. 56 (1996), *codified at* 47 U.S.C. § 230; Children's Internet Protection Act, Pub. L. 106-554, *codified at* 47 U.S.C. § 254(h); 20 U.S.C. § 9134 (2000); Dot Kids Implementation and Efficiency Act of 2002, Pub. L. 107-317 (2002); Truth in Domain Names Act of 2003, Pub. L. 108-21, *codified as* 18 U.S.C. § 2252B (2003); Children's Online Protection Act, Pub. L. 105-277, 112 Stat. 2681-2736 (1998), *codified at* 47 U.S.C. § 231. The Communications Decency Act and the Children's Online Protection Act have been found unconstitutional in part. See *Reno v. ACLU*, 521 U.S. 844 (1997) (Communications Decency Act); *American Civil Liberties Union v. Mukasey*, 534 F.3<sup>rd</sup> 181 (3<sup>rd</sup> Cir. 2008), *cert. denied*, Jan. 21, 2009 (Children's Online Protection Act).

<sup>90</sup> See *Final Report of the COPA Commission Presented to Congress*, Executive Summary (2000), <http://www.copacommission.org/report/executivesummary.shtml> (Congress directed the COPA Commission to "identify technological or other methods that . . . will help reduce access by minors to material that is harmful to minors on the Internet.") (*hereinafter* "COPA Report"); Dick Thornburgh and Herbert S. Lin, *Youth, Pornography*, (continued....)



number of non-U.S. Government studies that have examined child online safety.<sup>91</sup> Most recently, in addition to this inquiry mandated by the Child Safe Viewing Act, Congress directed the NTIA to establish the Online Safety and Technology Working Group (“OSTWG”) “to review and evaluate the status of industry efforts to promote online safety through educational efforts, parental control technology, blocking and filtering software, age-appropriate labels for content or other technologies or initiatives designed to promote a safe online environment for children.”<sup>92</sup> The OSTWG has one year from the date it is first convened to submit a report to Congress.<sup>93</sup> We invite comment on how our inquiry in this proceeding should differ from the effort of the OSTWG. We also invite comment on what information learned in previous studies of the Internet, online safety, and parental control technologies could be applied to our mandate under the Child Safe Viewing Act to examine advanced blocking technologies for Internet video and audio programming? What have we learned since previous reports and how has the Internet evolved, including in ways perhaps not anticipated by those studies?

39. We invite comment generally on advanced blocking technologies and parental empowerment tools that assist parents in controlling their children’s access to audio and video programming on the Internet. Blocking technology allows an individual to receive all content except content that is blocked because it is on a blacklist.<sup>94</sup> The list of what is blocked may be generated through an automated analysis, human review, or by user options. Individuals can select different blocking services which may block based on different criteria, permitting parents to select a service that more closely matches their concerns. The list of blocked content may be updated regularly from the filtering service or from a third party service that reviews Internet content. Generally blocking technology gives the owner the ability to use a password to turn off the filters when desired.<sup>95</sup>

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and the Internet, Computer Science and Telecommunications Board, National Academies Press (2002) (Congress requested that the National Academies of Sciences “conduct a study of computer-based technologies and other approaches to the problem of the availability of pornographic material to children on the Internet.”) (*hereinafter* “CTSB Report”); Report to Congress, Children’s Internet Protection Act, Pub. L. 106-554, Study of Technology Protection Measures in Section 1703, Sec. I (2003), [http://www.ntia.doc.gov/ntiahome/ntiageneral/cipa2003/CIPAreport\\_08142003.htm](http://www.ntia.doc.gov/ntiahome/ntiageneral/cipa2003/CIPAreport_08142003.htm) (Congress directed NTIA “to evaluate whether currently available Internet blocking or filtering technology protection measures and Internet safety policies adequately address the needs of educational institutions”).

<sup>91</sup> See, e.g., *Final Report of the Internet Safety Technical Task Force: Enhancing Child Safety and Online Technologies*, Berkman Center for Internet & Society (2008); Dr. Tanya Byron, *Safer Children in a Digital World: the Report of the Byron Review* (2008) (“Byron Report”); *Making Wise Choices Online*, Family Online Safety Institute (2008) (“FOSI Report”); *Safer Internet for Children: Qualitative Study of 29 European Countries*, Directorate General Information Society and Media, European Commission (2007); *Protecting Children in the Internet Age*, New York State Senate Task Force on Critical Choices (2007).

<sup>92</sup> Broadband Data Improvement Act, Pub. L. 110-385, Sec. 214(b) (2008). See also Call for Nominations, Online Safety and Technology Working Group, Fed. Reg. Vol. 73, No. 226, (Nov. 21, 2008) [http://www.ntia.doc.gov/frnotices/2008/FR\\_OnlineSafety\\_081121.pdf](http://www.ntia.doc.gov/frnotices/2008/FR_OnlineSafety_081121.pdf).

<sup>93</sup> The OSTWG has not yet convened its first meeting.

<sup>94</sup> Content can be blocked based on the domain name or IP number of the content source. See COPA Report, Sec. II.B. Filtering/Blocking. Blocking technology that is on an individual’s computer has been described as “use by end users of software that causes the browser not to download content from specified content sources.” *Id.* An example of this is a web filter on an individual’s computer that blocks access to specific websites identified by some third-party service. See GetNetWise | Tools Filtering Out Sexually Explicit Content, <http://kids.getnetwise.org/tools/blocksex> (providing a list of filtering programs).

<sup>95</sup> See COPA Report, Sec. II.B. See also CTSB Report, p. 6-7; GetNetWise | Tools Filtering Out Sexually Explicit Content, <http://kids.getnetwise.org/tools/blocksex> (providing a list of filtering programs). (continued....)

40. In addition to blocking, there are a number of other kinds of parental empowerment tools currently available for the Internet. For example, many services give content creators, viewers, and third-parties the ability to label or tag content.<sup>96</sup> Creators can label their own content and individuals watching a video, viewing a photo, or reading a blog can tag that content as worthy of reading, offensive, or perhaps a violation of community standards.<sup>97</sup> Reviews and ratings of content can also be provided by third-party websites.<sup>98</sup> We invite comment on whether tagging or labeling content is an effective solution to protect children from inappropriate content. Is offensive content appropriately flagged, and has the industry been responsive in acting on flagged content?<sup>99</sup> Is tagging, labeling, or flagging content by the Internet community itself more effective than filtering by the industry or a third-party based on ratings developed by the industry or a third-party?

41. Another strategy currently used on the Internet to block indecent or offensive content is the creation of child safe zones that “white list” safe content and block out unwanted content. Examples of child safe zones include .Kids.US<sup>100</sup> and Teen Second Life.<sup>101</sup> Has the child safe zone strategy been effective, and do parents know about this option? Do children, particularly teenagers, simply bypass the restrictions of these safe zones, for example by going straight to the adult space instead of staying in the designated child safe space? Other parental control solutions currently available on the Internet include monitoring and recording devices that provide parents with information about their children’s Internet

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<sup>96</sup> See, e.g., Flickr: Help: Content Filters, <http://www.flickr.com/help/filters/#258>; LiVE JOURNAL, FAQ Question #281, How Can I Mark Content as Inappropriate for Minors?, <http://www.livejournal.com/support/faqbrowse.bml?faqid=281>.

<sup>97</sup> See, e.g., Flagging on YouTube: The Basics, <http://www.youtube.com/watch?v=ZA22WSVICZ4>; Craigslist | about > help > flags and community moderation, [http://www.craigslist.org/about/help/flags\\_and\\_community\\_moderation](http://www.craigslist.org/about/help/flags_and_community_moderation); Your pennhills, Flagging Posts and sending feedback, <http://www.yourpennhills.com/guidebook/flaghelp/>. See also Social Networks and Bookmarking, Pew Internet & American Life Project (Jan. 24, 2005), <http://www.pewinternet.org/PPF/p/1035/pipcomments.asp>. There are many popular tagging services that inform participants in a community regarding what other members of the community have found interesting and worth reading. See, e.g., Delicious, <http://delicious.com/>; reddit.com: what’s new online, <http://www.reddit.com/>; Digg, <http://digg.com/>.

<sup>98</sup> See, e.g., Common Sense Media, Website Reviews Kids Websites, <http://www.common sense media.org/website-reviews>.

<sup>99</sup> The terms “tag,” “label,” and “flag” are all used in the Internet environment to designate an identifier added to content that may alter the way the content is consumed but does not change or block the content. For example, viewers of YouTube can “flag” videos as inappropriate and, if content gets enough flags, YouTube may take it down. As another example, Amnesty International could “label” some content as containing scenes of or information about torture and therefore suitable for an adult audience, and a filtering program could be used by a parent to block that content from being seen by young children. “Tagging” is popular in social networks to identify content so that others interested in that subject can search for the content using the tag. See Platform for Internet Content Selection, W3C, <http://www.w3.org/PICS/>; COPA Report, Sec. II.C. Labeling and Rating Systems; FOSI Report, p. 8; Lee Rainie, *28% of Online Americans Have Used the Internet to Tag Content*, Pew Internet & American Life Project (2007), [http://www.pewinternet.org/pdfs/PIP\\_Tagging.pdf](http://www.pewinternet.org/pdfs/PIP_Tagging.pdf).

<sup>100</sup> .Kids.US – Play, Learn, Surf, <http://www.kids.us/>. See also Final Report of the COPA Commission Presented to Congress, II. Technologies and Methods, E. New Top Level Domain / Zoning (2000), <http://www.copacommission.org/report/newtopleveldomain.shtml>.

<sup>101</sup> Second Life | Safety Tips for Teens and Parents, <http://secondlife.com/policy/security/teensafety.php>; Teen Second Life, <http://teen.secondlife.com/>.

use,<sup>102</sup> takedown and acceptable use policies adopted by certain websites that identify and remove objectionable content,<sup>103</sup> services offered by some websites that restrict access by children to parts of the site,<sup>104</sup> and age verification.<sup>105</sup> We invite comment on these and any other technologies available or under development to control children's access to Internet content, as well as any other parental empowerment tools currently available. Is there technology that would permit parents to select programming for their children similar to TiVo KidZone?

42. We also invite comment on how we can encourage the development and use of advanced blocking technologies and other parental control solutions for video and audio programming available over the Internet. We note that parental control solutions can be implemented in a variety of ways in a variety of locations in the network, which offers the opportunity for multiple approaches to providing parental control. For example, blocking technology can reside in a specific application that an individual is using (a web browser that blocks pop-up ads or an email application that blocks spam); in an individual's computer (a firewall that blocks malicious traffic); in an individual's local network (a network gateway that restricts access to the network); in an individual's Internet access service (ISP blocking ports that are used in worm and virus attacks); within Internet networks (networks blocking malicious man-in-the-middle phishing attacks); at the hosting site of the content or applications (hosting site takes down content which does not comply with the hosts acceptable use policy); or at a third party site which is monitoring for unwanted content (an organization that reviews websites and publishes a list of websites that do not meet that organization's criteria).<sup>106</sup> Which of these approaches shows promise for providing parents with ability to control children's access to objectionable content? Are end-user device based mechanisms preferable in terms of providing for parental control? What types of advanced blocking mechanisms could be built into consumer-level routers? Are any blocking technologies currently in use effective in giving parents the ability to restrict their children's access to objectionable content from sources other than web sites?

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<sup>102</sup> According to GetNetWise, "monitoring tools inform adults about a child's online activity without necessarily limiting access. Some of these tools simply record the addresses of Web sites that a child has visited. Others provide a warning message to a child if he/she visits an inappropriate site." GetNetWise, *Tools that Monitor Computer Activity*, <http://kids.getnetwise.org/tools/monitors> (providing a list of available monitoring applications). See also CSTB Report, p. 11; COPA Report, Sec. II.F.15. Monitoring and Time-Limiting technologies.

<sup>103</sup> Take down policies can be found at content hosting sites and are associated with the site's acceptable use policy. If content violates the acceptable use policy, the service may remove it from the site. Sites may actively review their content, or they may review the content when notified by a visitor that the content is problematic. For example, YouTube has posted its "Community Guidelines" and states "YouTube staff review flagged videos 24 hours a day, seven days a week to determine whether they violate our Community Guidelines. When they do, we remove them." YouTube Community Guidelines, [http://www.youtube.com/t/community\\_guidelines](http://www.youtube.com/t/community_guidelines). See, e.g., Flickr Community Guidelines, <http://www.flickr.com/guidelines.gne>; Second Life | Safety Tips for Teens and Parents, <http://secondlife.com/policy/security/teensafety.php>.

<sup>104</sup> Different services offer parents the ability to restrict access by children to some parts of the service. For example, iTunes gives parents the ability to set the music download service so that no "explicit" music can be bought or downloaded through iTunes by the parent's children. See iTunes: Using Parental Controls, <http://support.apple.com/kb/HT1904>. See also Google Safesearch, <http://www.google.com/support/websearch/bin/static.py?page=searchguides.html&ctx=preferences&hl=en>; World of Warcraft Parental Control FAQ, <http://www.worldofwarcraft.com/info/faq/parental-control-faq-small.html>; Flickr: Help: Content Filters: What is Safesearch, <http://www.flickr.com/help/filters/#249>.

<sup>105</sup> See COPA Report, Sec. II.D. Age Verification Systems.

<sup>106</sup> See COPA Report, Exec. Summary.

43. Finally, to what extent are children able to circumvent the blocking technologies adopted by parents? We note that encryption of content may circumvent advanced blocking mechanisms. We also note that children may obtain access to content deemed objectionable via Internet access not controlled by a child's parents, such as Wi-Fi hot spots, a neighbor's wireless LAN, or Internet access that is publicly available, such as in schools and libraries and Internet cafes. Children may also circumvent parental controls in the home through the use of portable storage devices, such as a flash drive or an iPod or recordable DVDs. Is there technology available to parents that would prevent a child from obtaining objectionable content from outside the home and later viewing or listening to it on equipment in the home? In light of the ways in which blocking technology might be circumvented, what role should education play in protecting children from objectionable content? How can the value of the Internet as an educational and informational tool for children<sup>107</sup> be balanced against efforts to ensure children's online safety?<sup>108</sup>

#### **F. Blocking Technologies Compatible With Multiple Platforms**

44. Finally, we seek general comment on whether there are blocking technologies currently available or in development that are capable of operating across multiple platforms. Because children today have access to multiple media platforms, content that parents may have blocked on one medium could potentially be accessed by children on another medium. For example, while parents may have activated the V-chip to block TV-14 content on the family television set, a child may be able to access the same content over the Internet on the family computer or on the child's own laptop or wireless device. To what extent could blocking technologies compatible with multiple platforms provide a solution to parents in this situation? For example, are there technologies that could operate on a wireless network or wireless device as well as another platform (such as cable or wireline service)? Are Internet filters able to filter Internet content to all devices, including wireless devices, or are they limited to computers (which would include wireless modem cards used on laptops or other portable devices, but not wireless smartphones)? To the extent that blocking technologies are able to filter Internet content to both wireline and wireless devices, are there any technical limitations for filters operating on laptops using wireless laptop cards, due to the potentially slower speed of a wireless broadband service? Are there other issues that need to be resolved in order to ensure that blocking technologies can operate seamlessly across platforms?

### **IV. CONCLUSION**

45. Although the development of new media technologies and platforms offers learning opportunities for children, it also poses new dangers, and increased challenges to parents' ability to supervise how their children use the media. Through this proceeding we will examine the existence and availability of advanced blocking technologies across a range of communications devices and platforms. As directed by the Child Safe Viewing Act, we will submit a report to Congress detailing our findings.

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<sup>107</sup> CSTB Report, p. 1 ("The Internet provides convenient access to a highly diverse library of educational resources, enables collaborative study, and offers opportunities for remote dialog with subject-matter experts. It provides information about hobbies and sports, and it allows children to engage with other people on a near-infinite variety of topics. Through online correspondence, their circles of friendship and diversity of experience can achieve a rich and international scope."); COPA Report, Exec. Sum. ("The Internet is revolutionizing access to information, providing undeniable benefit to consumers and commerce."); CIPA Report, Exec. Sum. ("In homes, schools, and libraries across the nation, the Internet has become a valuable and even critical tool for our children's success. Access to the Internet furnishes children with new resources with which to learn, new avenues for expression, and new skills to obtain quality jobs.").

<sup>108</sup> Byron Report, Exec. Sum.; FOSI Report, p.11.

## V. ADMINISTRATIVE MATTERS

46. *Ex Parte Rules*. Pursuant to section 1.1204(b)(1) of the Commission's rules, 47 C.F.R. § 1.1204(b)(1), this is an exempt proceeding. *Ex parte* presentations are permitted, and need not be disclosed.

47. *Comments and Reply Comments*. Pursuant to Sections 1.415 and 1.419 of the Commission's rules, 47 C.F.R. §§ 1.415, 1.419, interested parties may file comments on the Notice of Inquiry, MB Docket No. 09-26, on or before the dates indicated on the first page of this document. Comments may be filed using: (1) the Commission's Electronic Comment Filing System ("ECFS"), (2) the Federal Government's eRulemaking Portal, or (3) by filing paper copies. *See* Electronic Filing of Documents in Rulemaking Proceedings, 63 FR 24121 (1998).

48. *Electronic Filers*: Comments may be filed electronically using the Internet by accessing the ECFS: <http://www.Commission.gov/cgb/ecfs/> or the Federal eRulemaking Portal: <http://www.regulations.gov>. Filers should follow the instructions provided on the website for submitting comments.

49. For ECFS filers, if multiple docket or rulemaking numbers appear in the caption of this proceeding, filers must transmit one electronic copy of the comments for each docket or rulemaking number referenced in the caption. In completing the transmittal screen, filers should include their full name, U.S. Postal Service mailing address, and the applicable docket or rulemaking number. Parties may also submit an electronic comment by Internet e-mail. To get filing instructions, filers should send an e-mail to [ecfs@fcc.gov](mailto:ecfs@fcc.gov), and include the following words in the body of the message, "get form." A sample form and directions will be sent in response.

- *Paper Filers*: Parties who choose to file by paper must file an original and four copies of each filing. If more than one docket or rulemaking number appears in the caption of this proceeding, filers must submit two additional copies for each additional docket or rulemaking number.

Filings can be sent by hand or messenger delivery, by commercial overnight courier, or by first-class or overnight U.S. Postal Service mail (although we continue to experience delays in receiving U.S. Postal Service mail). All filings must be addressed to the Commission's Secretary, Office of the Secretary, Federal Communications Commission.

- The Commission's contractor will receive hand-delivered or messenger-delivered paper filings for the Commission's Secretary at 236 Massachusetts Avenue, N.E., Suite 110, Washington, DC 20002. The filing hours at this location are 8:00 a.m. to 7:00 p.m. All hand deliveries must be held together with rubber bands or fasteners. Any envelopes must be disposed of before entering the building.
- Commercial overnight mail (other than U.S. Postal Service Express Mail and Priority Mail) must be sent to 9300 East Hampton Drive, Capitol Heights, MD 20743.
- U.S. Postal Service first-class, Express, and Priority mail should be addressed to 445 12<sup>th</sup> Street, S.W., Washington, DC 20554.
- In addition, parties must serve the following with either an electronic copy via e-mail or a paper copy of each pleading: (1) the Commission's duplicating contractor, Best Copy and Printing, Inc., Portals II, 445 12<sup>th</sup> Street, S.W., Room CY-B402, Washington, DC 20554, telephone 1-800-

378-3160, or via e-mail at [www.bcpweb.com](http://www.bcpweb.com); and (2) Kim Matthews, Media Bureau, 445 12<sup>th</sup> Street, S.W., Room 4-A813, [Kim.Matthews@fcc.gov](mailto:Kim.Matthews@fcc.gov).

50. *People with Disabilities*: Contact the Commission to request materials in accessible formats (Braille, large print, electronic files, audio format, etc.) by e-mail at [Commission504@Commission.gov](mailto:Commission504@Commission.gov) or call the Consumer & Governmental Affairs Bureau at 202-418-0530 (voice), 202-418-0432 (TTY).

51. *Additional Information*. For additional information on this proceeding, contact Kim Matthews, Media Bureau, at (202) 418-2154, or at [kim.matthews@fcc.gov](mailto:kim.matthews@fcc.gov).

## VI. ORDERING CLAUSE

52. Accordingly, **IT IS ORDERED** that, pursuant to the authority contained in sections 4(i), 303(g), and 403 of the Communications Act, 47 U.S.C. §§ 154(i), 303(g), and 403, and pursuant to the Child Safe Viewing Act of 2007, this Notice of Inquiry **IS ADOPTED**.

FEDERAL COMMUNICATIONS COMMISSION

Marlene H. Dortch  
Secretary

**STATEMENT OF  
ACTING CHAIRMAN MICHAEL J. COPPS**

*Re: Implementation of the Child Safe Viewing Act; Examination of Parental Control Technologies for Video or Audio Programming, MB Docket No. 09-26*

Graphically violent and indecent content is all too present in our media. Parents are the first line of defense against these barrages of violent and indecent images. But parents must be armed with information about programming content and the tools to prevent their children's exposure to content the parents find objectionable. Although advances in media technology present our children with new opportunities for learning and acquiring skills to succeed in our increasingly technology-driven society, at the same time they pose challenges to parents' ability to control the content to which their children are exposed. Even if a parent successfully programs the V-chip or cable or satellite parental controls to protect his or her children from objectionable television content, the children can find some of the same programming online or on advanced wireless devices.

I am pleased that Congress asked us to examine these issues. I look forward to hearing from parents and children's advocates regarding what tools parents need to protect their children from content they deem harmful, as well as from industry players regarding steps they can take to help parents do their jobs. I also would like to hear from technology experts, and hope that they will apply the same creativity and talent to developing the next generation of blocking and parental empowerment technologies that they do in developing the advanced media applications themselves.

**STATEMENT OF  
COMMISSIONER JONATHAN S. ADELSTEIN**

*Re: Implementation of the Child Safe Viewing Act; Examination of Parental Control Technologies for Video or Audio Programming, MB Docket No. 09-26*

Parents across the country are locked in a near constant struggle to protect our children from a barrage of media programming filled with content they consider inappropriate. Too many parents feel like they are losing control, and they are frustrated by a relentless march of coarse material they view as too violent, too sexual, too commercial or too unhealthy for their children. Today, this *Notice of Inquiry* implementing the Child Safe Viewing Act of 2007 marks an important, first step toward relief and reinforcement for concerned parents nationwide.

I applaud Senator Mark Pryor and the leadership of the Senate Commerce Committee for their strong push to enact the legislation mandating this inquiry and subsequent report. In a broader sense, it is unfortunate that legislation was needed at all to compel the FCC to do its job. I called on the Commission in June 2008, to conduct the inquiry we are now undertaking.<sup>1</sup> Despite the Senate Commerce Committee's unanimous approval of Senator Pryor's bill in 2007, the Commission failed to act on its own. If the study had begun when the Committee first acted, or even when I called for it, it would be completed now instead of just beginning.

For too long, the Commission has been derelict in its statutory responsibility to promote a comprehensive *and* constitutional approach in dealing with the vast array of inappropriate material for children that does not rise to the level of our standard of indecency. This *NOI* represents a step in the right direction, as it moves us closer toward equipping parents with the knowledge and tools necessary to protect children through their development amid the cacophony of modern media.

V-Chip technology, one of the most important blocking tools available to all families, has been available for over ten years, yet many parents still do not understand how it works. Nor do parents fully understand the current "alphabet soup" of ratings and content description system. The shortcomings of the V-Chip and ratings system were all too apparent in the Commission's report to Congress on the effects of television violence on children. As I said in my separate statement at the time, the Commission's should have included a complete and thorough analysis of all parental control technologies, including their shortcomings, resources that are currently available to families and households, and real ways to improve them.<sup>2</sup> The time has come to rectify this shortfall.

As a parent of young children, I believe I speak for millions of parents when I say we are overwhelmed, fed up and looking for help from the government *and* the industry alike. In that most important role in my life, as a parent, I live with the need to take meaningful, common sense steps to protect my children. My family, like millions of families with children, needs help in navigating this treacherously complicated electronic media landscape.

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<sup>1</sup> See Speech, Jonathan S. Adelstein, "Stuck in the Mud: Time to Move on an Agenda to Protect America's Children," June 11, 2008, at 3. [http://hraunfoss.fcc.gov/edocs\\_public/attachmatch/DOC-282885A1.pdf](http://hraunfoss.fcc.gov/edocs_public/attachmatch/DOC-282885A1.pdf)

<sup>2</sup> See Separate Statement of Commissioner Jonathan S. Adelstein, *In the Matter of Violent Television Programming And Its Impact on Children*, 22 FCC Rcd 7929 (2007). [http://hraunfoss.fcc.gov/edocs\\_public/attachmatch/FCC-07-50A4.pdf](http://hraunfoss.fcc.gov/edocs_public/attachmatch/FCC-07-50A4.pdf)



As Commissioner, it is my job to ask what the government can do about it. I fully realize that whatever we do, it will take the open-armed cooperation of the broadcasting, cable and especially consumer electronics industries. Blocking technology strikes a balance beneficial to all parties involved: it allows us to protect our children while respecting the creative and expressive rights of content creators. Achieving one objective should not mean sacrificing the other. As I've discussed in my "Agenda to Protect America's Children," there are many steps that could and should be taken by government and industry.<sup>3</sup>

Our call to action is clear: we have to make parental controls easier to understand, easier to use, and universally acceptable. They should be as instinctual as many of the other aspects of parenting we use each day. It is my hope that this NOI launches more than a proceeding, but a consensus-building mechanism to develop a comprehensive set of solutions to protect America's children.

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<sup>3</sup> See "Stuck in the Mud: Time to Move on an Agenda to Protect America's Children," 5-8.  
[http://hraunfoss.fcc.gov/edocs\\_public/attachmatch/DOC-282885A1.pdf](http://hraunfoss.fcc.gov/edocs_public/attachmatch/DOC-282885A1.pdf)

**STATEMENT OF  
COMMISSIONER ROBERT M. MCDOWELL**

*Re: Implementation of the Child Safe Viewing Act; Examination of Parental Control Technologies for Video or Audio Programming, MB Docket No. 09-26*

I am pleased to support this Notice of Inquiry to begin our implementation of the Child Safe Viewing Act, which was enacted in December 2008. Congress has directed us to review and report on the existence and efficacy of various “advanced blocking technologies” that allow parents to shield their children from inappropriate video and audio content when such content is distributed across a wide range of electronic communications systems.

As the father of three young children, I hope that, by advising Congress on the proliferation of filtering technologies now available or in development for broadcasting, cable, satellite, wireless devices and the Internet, we will help parents better understand their options as well. Our efforts also may assist industry in spotting gaps or weaknesses in existing parental-control mechanisms, and thereby spur additional innovation. I look forward to engaging with interested parties and learning more about industry efforts in this important area.