

1-1-1995

## Children's Television Act: Encouraging Positive Television for Our Children, The - A Proposal to the FCC

Gary E. Knell

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### Recommended Citation

Gary E. Knell, *Children's Television Act: Encouraging Positive Television for Our Children, The - A Proposal to the FCC*, 17 HASTINGS COMM. & ENT. L.J. 699 (1995).

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# **The Children's Television Act: Encouraging Positive Television for Our Children**

## **A Proposal to the FCC**

*by*  
**GARY E. KNELL\***

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\* Gary E. Knell is Senior Vice President for Corporate Affairs at the Children's Television Workshop (CTW). He formerly served as Vice President and Director of Legal Affairs at CTW, Senior Vice President and General Counsel at New York public television station WNET, and Counsel to the U.S. Senate Judiciary Committee.

## Introduction

Much of the current policy discussion regarding television programming is concentrated on the debate over shows considered violent and the tension between two legitimate issues: fidelity to the First Amendment and the need to adequately protect our children from inappropriate broadcast material. As interested citizens, we need constructive criticism of television violence. More importantly, we must emphasize and encourage positive uses of the broadcast medium.

In particular, television's potential to help educate and inform children remains largely unrealized. It is crucial that we avail ourselves of this untapped potential today, when children and their educational deficiencies are high on our national agenda.

In the last fifteen years, boosted in large part by the growth of cable, there has been an explosion of programming directed at children. Beginning in 1980, the number of children's shows doubled every five years, and from 1990 to 1995 it tripled.<sup>1</sup> Meanwhile, researchers raised concerns about the high incidence of violence on television, particularly on cable and especially in children's programming.<sup>2</sup> While experts continue to argue over the validity of these findings and the exact extent and nature of the effect of media violence on children, legislators have responded to parents' and teachers' continuing protests.<sup>3</sup>

## I

### The Children's Television Act

In 1990 Congress overwhelmingly passed the Children's Television Act (the Act),<sup>4</sup> which had won strong bipartisan support. In addition to enacting other stipulations designed to encourage more constructive programming for children, the Act required broadcasters to help contribute to meeting children's educational needs in order to continue to be licensed. To implement Congress' directive, the Federal Communications Commission (FCC) directed broadcasters to provide some educational and informational programming, defined as "any television programming which furthers the positive development

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1. Study by Dr. Fiona Chew, Syracuse University, for Children's Television Workshop (1990) (updated by Ann Marie Cunningham, 1995) (on file with author).

2. John Carmody, *The TV Column*, WASH. POST, Feb. 2, 1995, at C4.

3. Kim McAvoy, *Simon Presses for Revived Programming Code*, BROADCASTING & CABLE, Dec. 17, 1990, at 79.

4. Pub. L. No. 101-437, 104 Stat. 996 (codified at 47 U.S.C. § 303 (1988 & Supp. IV 1992)).

of children 16 years of age and under in any respect, including the child's intellectual/cognitive or social/emotional needs."<sup>5</sup>

Some broadcasters have risen to the challenge with new shows such as *Real News for Kids*, *Cro*, *Bill Nye the Science Guy*, and *Beakman's World*. Unfortunately, there has been no dramatic increase in educational programming for children on the broadcast networks, and the Act's educational programming requirement does not even apply to cable system operators.<sup>6</sup> Although this requirement was central to the Act, there is little evidence that commercial broadcasters have complied with either the spirit or the letter of the new law. Too many children's shows have remained, in the words of Congressman Ed Markey, "the video equivalent of a Twinkie."<sup>7</sup>

In September 1992 *The New York Times* reported—and trade journals have continued to document since—that local stations have gone to great lengths to justify to the FCC their decisions to continue broadcasting cartoons.<sup>8</sup> One station claimed that *The Jetsons* taught children about life in the twenty-first century; another stated that *The Flintstones* provided a lesson on prehistory.<sup>9</sup>

Consequently, the FCC recognized that implementation of the Act had to include issuing more precise guidelines for appropriate programming.<sup>10</sup> For the last two years the FCC has been struggling to eliminate the confusion over what constitutes "educational and informational" programming and to strengthen standards for such programs. As evidence of this struggle, the FCC at first suggested that these programs be *primarily* educational and only *secondarily* entertainment.<sup>11</sup> This dichotomy, many producers—including Disney, Children's Television Workshop (CTW), and others—pointed out, is false, and the FCC is now soliciting comments on several options,

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5. 47 C.F.R. § 73.671(a) & note (1993).

6. Kathleen Shea, *Politics May Force Kid Shows to Smarten Up*, ORANGE COUNTY REG., Apr. 23, 1993, at 50.

7. *Hearing Before the Subcomm. on Telecommunications and Finance of the Senate Comm. on Energy and Commerce*, 103d Cong., 1st Sess. 1 (1993).

8. Edmund L. Andrews, *Broadcasters, to Satisfy Law, Define Cartoons as Education*, N.Y. TIMES, Sept. 30, 1992, at A1; Joe Flint, *Congress' Message to Broadcasters: Get Your Children's Act Together*, BROADCASTING & CABLE, Mar. 15, 1993, at 49-51.

9. *Jetsons, GI Joe Teaching the Kids? FCC Wrestling with Its Rules on Educational TV*, S.F. EXAMINER, Mar. 4, 1993, at A1.

10. Edmund L. Andrews, *'Flintstones' and Programs Like It Aren't Educational, F.C.C. Says*, N.Y. TIMES, Mar. 4, 1993, at A1.

11. *In re Policies and Rules Concerning Children's Television Programming: Revision of Programming Policies for Television Broadcast Stations, Notice of Inquiry*, 8 FCC Rcd. 1841, para. 8 (1993).

from keeping a voluntary status quo standard to issuing quantitative suggestions for the number of hours of qualifying programming.<sup>12</sup>

## II

### A Proposed Model

The goal of the CTW—now for over twenty-five years—has been to use the media to help educate children. CTW's first belief in achieving this mission is that programming must "reach" before it can "teach." It has to attract and engage a young audience before it can impart any educational content. From CTW's inception, it has adhered to the principle that unless an educational program succeeds as entertainment, a child will "surf" on to the next channel to find something more interesting.

CTW follows a specific design that has invigorated the process of producing and evaluating children's educational programming and has resulted in shows that are both popular and educationally effective. Consequently, CTW has recommended that the FCC adopt a similar design as the standard for defining what might constitute children's educational programming.

To qualify as educational programming, CTW has advocated that such programming must be constructed according to the following model, which involves three steps:

#### A. A Program Must Be Created with Explicit Written Educational Goals

From the onset of a program's development, producers need to establish clear educational objectives. These may include either cognitive, affective, or socially relevant goals appropriate to the young audience's age and stage of development. For example, *Sesame Street*, CTW's flagship series for preschoolers, began with only a small number of educational goals: to prepare children to start school by helping them learn letters, numbers, and social skills such as the value of cooperation. Today, more than twenty-five years later, *Sesame Street's* curriculum has expanded considerably and includes pre-literacy, pre-science, and some basic Spanish. Regularly, at the onset of each production cycle, the new season's goals are formulated in writing.

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12. *In re* Policies and Rules Concerning Children's Television Programming, Revision of Programming Policies for Television Broadcast Stations, *Notice of Proposed Rule Making* in MM Docket No. 93-48, FCC 95-143 (Apr. 7, 1995).

**B. The Producer Must Call on Independent Expert Advisors to Help Design the Program to Ensure the Program Achieves Its Educational Goals**

These advisors may be experts in specific content (such as science, mathematics, or literacy) in teaching methods, or in child development. From CTW's inception, it has often employed interdisciplinary teams to help design new programming. These teams have included content specialists, educational researchers, and television producers. Where this approach might pose too high a hurdle, a local station producing an educational program might call on its community college professors or teachers who specialize in the program's content area.

**C. The Producer Must Test the Program with Its Intended Audience to Judge Appeal and Educational Value with Children**

This might be done by means of focus groups or more scientific sampling conducted by research staff. For example, *Cro*, a series that CTW produced for the ABC network's Saturday morning children's schedule, combines basic applied science concepts with an animated comedy-adventure format. While animation is a format that has great appeal to most children, CTW also needed to be sure that children were learning from the program. Researchers conducted testing by means of focus groups of more than 2600 children aged six through twelve. This testing showed that children were absorbing basic science concepts, and importantly, that the program appealed equally to both boys and girls.<sup>13</sup>

### **III Application**

It should be pointed out that, as *Cro* demonstrates, this system is completely applicable to commercial and noncommercial television alike. In fact, other children's producers make similar efforts when they desire their programs to be considered "educational and informational." Most producers, as well as local broadcasters who produce children's programming, already use educational advisors in planning their offerings. Written objectives also are a staple of local children's programs.

Does CTW's design mean more staff, more time, and therefore somewhat more expensive production? Not necessarily. Massive for-

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13. Memorandum from Susan Mendelsohn to Children's Television Workshop (Oct. 1993) (discussing *Cro* formative research and whole show research) (on file with author).

mal testing is not necessary; focus groups will do. Like content advisors, researchers can be found at local educational institutions. In the long run, CTW feels that the design saves money since it permits, to some degree, a forecast of a new show's appeal and effectiveness. This gives the producer an early warning as to what is working and what is not, and also provides the ability to make a better show in less time.

#### IV Conclusion

If this kind of process became the national standard for producers of children's educational programming, it would provide a clear, objective set of guidelines which stations could follow to insure compliance. The Act's goals of increasing the amount of children's educational programming will be met. Broadcasters will possess the specific, realistic guidance that they want and need. Most importantly, the government could avoid "content regulation" which would inevitably result from judging editorial compliance with definitions such as "primarily educational and only secondarily entertainment."

The production of quality children's television *is* doable. Moreover, CTW's experience shows that educational programming can be very successful. For example, *Sesame Street*, our flagship series for preschoolers, remains, after twenty-six years on the air, the most watched program in the history of children's television. *Ghostwriter* currently ranks thirteenth out of eighty-one shows in network and syndicated broadcast.

The Children's Television Act was designed to increase choices for children and to give parents, families, educators, and concerned citizens a way to secure more educational programming for children—a "safe harbor" for them in the mega-channel universe that is rapidly approaching. By following a process which merely mandates that the Act be taken seriously, producers and broadcasters are more likely to acquire a greater sense of responsibility with respect to eliminating gratuitous violence in the children's programming that they create. By adopting such a process as its standard, the FCC will go far in meeting the public demand for better programming options for our nation's kids and for regular programming that helps children to learn and to continue learning as a vital, lifelong process.