United States Government Accountability Office

GAO

Report to the Chairman, Committee on Commerce, Science, and Transportation, U.S. Senate

July 2011

CHILDREN'S TELEVISION ACT

FCC Could Improve Efforts to Oversee Enforcement and Provide Public Information

U.S. Government Accountability Office

GAO 90 YEARS 1921-2011

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GAO-11-659

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Highlights

Highlights of GAO-11-659, a report to the Chairman, Committee on Commerce, Science, and Transportation, U.S. Senate

Why GAO Did This Study

The Children's Television Act of 1990 (CTA) and related Federal Communications Commission (FCC) rules restrict advertising during children's programs, whether aired by broadcast stations, cable operators, or satellite providers, and encourage broadcasters to air at least 3 hours per week of educational and informational programming for children (known as "core children's programming"). Broadcasters that certify in their license renewal application that they aired the minimum amount of core children's programming are eligible for expedited review. As requested, this report discusses (1) trends in children's programming, (2) FCC efforts to enforce the act, and (3) the extent to which parents value and use core children's programming. GAO analyzed FCC data, interviewed FCC and broadcast station officials, and conducted focus groups with parents.

What GAO Recommends

GAO recommends that FCC (1) implement a strategy to oversee cable operators' and satellite providers' compliance, (2) work with industry to develop voluntary guidelines for assessing core children's programming, and (3) implement and assess the effectiveness of additional mechanisms to inform parents about core children's programming. FCC generally concurred with GAO's recommendations and discussed planned and ongoing actions to address them.

View GAO-11-659 or key components.
For more information, contact Mark Goldstein at (202) 512-2834 or goldsteinm@gao.gov.

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What GAO Found

Broadcasters aired significantly more core children's programming in 2010 than in 1998, primarily because there are more broadcast channels and stations than there were then. An important source is multicasting, or the multiple channels aired by broadcasters since the digital television transition. Moreover, households increasingly rely on cable and satellite providers—to which core children's programming requirements do not apply—increasing the number of channels specifically targeted to children, but also increasing the impact of CTA and FCC's rules on advertising, which limit the duration of commercials and require their separation from children's programming on broadcast, cable, and satellite. Other media platforms, such as the Internet and MP3 players, are outside CTA's reach.

FCC's reliance on broadcasters to self-report violations of CTA when they renew their operating licenses has resulted in about 7,000 violations of the advertising or public file rules resulting in fines of almost $3 million. The vast majority of violations were for exceeding advertising time limits. FCC has no comparable self-reporting enforcement approach to oversee cable operators' or satellite providers' compliance with these same advertising limits. Instead, FCC's oversight efforts have identified only seven violations by cable and satellite providers even though they televise much more children's programming than broadcasters. FCC has avoided developing specific standards for core children's programming or judging program content, due to free speech concerns, relying instead on a broad definition and oversight by the public. A lack of widely accepted standards to assess such programming makes it difficult for parents and broadcasters to evaluate the educational content of core children's programming, potentially leading to wide variation in its quality. In the past, FCC and the media industry have collaborated to resolve concerns about program content in other areas.

Parent focus groups were largely unaware of CTA's requirements despite FCC's public education efforts. Once informed about the act and core children's programming, focus group parents believed requirements governing such programming should be more stringent than current rules. Core children's programming is designated as such by broadcast stations, but focus group parents believed independent standards or assessments of programming should be required, and parents in all focus groups perceived broadcast station involvement in the process to be a potential conflict of interest. Parents in our focus groups stated that important aspects of children's programming were that it be educational, age appropriate, and entertaining. Focus group parents had differing views on the importance and definition of educational television, but generally agreed that child-dedicated cable networks are more trustworthy for children's programming than broadcast stations and that a gap exists in appropriate programming for school-age children.

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Abbreviations

CTA	Children's Television Act of 1990
DMA	Designated Market Area
E/I	Educational/Informational
FCC	Federal Communications Commission
OMB	Office of Management and Budget
PBS	Public Broadcasting Service

United States Government Accountability Office
Washington, DC 20548

July 14, 2011

The Honorable John D. Rockefeller, IV
Chairman
Committee on Commerce, Science,
and Transportation
United States Senate

Dear Mr. Chairman:

The television industry has continued to evolve since the advent of broadcast television in the 1940s and 1950s. In recent years, the number of stations has grown and the transition to digital television has further increased the number of channels available to viewers. Studies show that people's viewing of television has also grown, including children's viewing. Congress enacted title I of the Children's Television Act of 1990 (CTA) to shield children from excessive advertising by commercial broadcast stations and to help ensure that broadcast television met its public service obligations to children by ensuring that some television was educational and informational.[1] CTA required the Federal Communications Commission (FCC) to (1) initiate and complete a rulemaking proceeding to prescribe standards regulating commercial advertising transmitted during children's television programs, (2) limit the duration of advertising that may be shown during children's television programs, and (3) consider the extent to which a broadcast station has served the educational and informational needs of children through its overall programming when reviewing a station's application to continue broadcasting.[2] The advertising provisions apply to cable operators as well as commercial over-the-air broadcasters.[3] By rule, FCC extended the advertising restrictions to direct broadcast satellite providers (satellite providers).[4]

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[1] Pub. L. No. 101-437, title I, 104 Stat. 996 (1990) (codified at 47 U.S.C. §§ 303a, 303b). Title II of the act pertained to the establishment of the National Endowment for Children's Educational Television.

[2] FCC has interpreted CTA as requiring the educational and informational requirement to apply to non-commercial educational television broadcast stations as well as commercial television stations. See 47 C.F.R. § 73.671.

[3] As defined at 47 U.S.C. § 522(5).

[4] 47 C.F.R. § 25.701(e).

In light of the significant role that television programming plays in the lives of young viewers, you asked us to examine the status of the act, including FCC's efforts to enforce it as well as how FCC provides information on children's programming to parents who may wish to use it to help plan their family television viewing. This report discusses (1) the trends in children's programming since CTA was implemented, (2) FCC's efforts to enforce the act, and (3) the extent to which parents value and use core children's programming.

To obtain information about the trends in children's programming since the act was implemented, we conducted a trend analysis of children's programming in eight designated market areas (DMA) of different sizes to determine changes in the availability of core children's programming between 1998 and 2010. To ensure variation in size and geographic dispersion, we selected the following DMAs: New York, New York; Dallas-Fort Worth, Texas; Denver, Colorado; San Diego, California; Grand Rapids-Kalamazoo-Battle Creek, Michigan; Spokane, Washington; Charleston, South Carolina; and Butte-Bozeman, Montana. In each DMA, we identified commercial stations that reported airing core children's programming and obtained reports submitted by each station from FCC's public database for a randomly selected quarter in each year from 1998 through 2010. For each station, we collected data on the reported average weekly hours of core children's programming as well as information on the program title, scheduled air day and time, and target age group for each program. We did not include programming aired by non-commercial broadcast stations, such as Public Broadcasting Service (PBS) member stations, in our analysis of core children's programming because non-commercial broadcast stations are not required to report the same data and thus comparable data were not available. We also interviewed personnel from commercial and non-commercial broadcast stations in five of these eight DMAs: Dallas-Fort Worth, Texas; San Diego, California; Grand Rapids-Kalamazoo-Battle Creek, Michigan; Spokane, Washington; and Charleston, South Carolina as well as personnel from various industry stakeholders, including representatives of industry associations, television networks specializing in children's programming, and providers of syndicated children's programming.

To obtain information about FCC's efforts to implement and enforce CTA, we reviewed relevant statutes and FCC rules related to commercial broadcast stations, cable operators, and satellite providers, as well as available FCC data on violations and civil penalties it issued. We also interviewed staff from several offices of FCC—including the Enforcement

Bureau and the Media Bureau—as well as personnel from commercial and non-commercial broadcast stations in the five DMAs we visited.

To obtain information on the extent to which parents value and use core children's programming, we conducted 10 focus groups of parents in 5 of the 8 DMAs noted above: Dallas-Fort Worth, Texas; Grand Rapids-Kalamazoo-Battle Creek, Michigan; Spokane, Washington; San Diego, California; and Charleston, South Carolina. We recorded the focus groups and analyzed written summaries of each, then multiple GAO analysts coded the responses to identify trends across the focus groups and worked to ensure agreement about the coding. In addition, we interviewed personnel from FCC, commercial and non-commercial broadcast stations, a child advocacy group, providers of syndicated children's programming, industry associations, and officials at various networks that specialize in children's programming. To obtain information on the availability of FCC information on core children's programming and CTA to parents through internet search engines, we conducted an analysis of search results using the three most popular internet search engines in the U.S. using various search terms. To assess the reliability of the data FCC provided, we interviewed FCC officials and determined that the data were sufficiently reliable for the purposes of describing trends in children's programming and in FCC enforcement activities.

We conducted this performance audit from April 2010 to June 2011 in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives. Appendix I contains a more detailed discussion of our objectives, scope, and methodology.

Background

In the United States, households with televisions are able to receive free, over-the-air broadcast television programming or pay for a subscription cable or satellite television service. Over-the-air broadcast television is comprised of commercial broadcast television stations—such as affiliates of networks like ABC or NBC—and non-commercial educational broadcast television stations—such as PBS member stations. For a subscription fee, cable operators and satellite providers generally offer a greater number of channels than free, over-the-air broadcast—including channels devoted to children's programming—as well as other services, such as on-screen program guides.

Following a decrease in the amount of children's educational programming in the 1980s and an increase in advertising during such programming, Congress sought to limit children's exposure to commercial advertisements by requiring that FCC initiate a rulemaking proceeding to prescribe standards regulating commercial advertising transmitted during children's television programs. Congress also sought to enhance children's educational programming by establishing that each broadcaster's obligation to serve the public interest includes an obligation to serve the educational needs of children. It also required that FCC consider before renewing any station license the extent to which the station has served the educational and informational needs of children during its license period.[5]

As framed by CTA, the educational programming provision of the act only applies to broadcast stations and not to cable operators or satellite providers. Cable operators and satellite providers are, however, subject to FCC's restrictions on children's television advertising—cable operators because they were included by the statutory language[6] and satellite providers by FCC rule.[7] Also by rule, non-commercial television stations, such as PBS member stations, are required to comply with some, but not all, of the same requirements as commercial television stations.[8]

Programming Rules for Broadcasters

To help broadcasters select and air programming that serves children's educational and informational needs, FCC established a definition and other criteria for such programming, known as "core programming" or "core children's programming." Core children's programming is defined by FCC rules and is a subset of children's programming, which is all

[5]Because over-the-air broadcast stations use public airwaves to broadcast content, they are licensed to serve the "public interest, convenience and necessity." Communications Act of 1934, § 309(k)(1), as amended (codified at 47 U.S.C. § 309(k)(1)). FCC is responsible for overseeing these stations, a function it performs primarily by reviewing licensees' compliance with statutory and regulatory obligations as each station applies to renew its license. To renew their licenses, stations are required to submit a license renewal application and supporting data, which FCC reviews. If the data shows a licensee has not met its legal responsibilities, FCC may admonish the station or issue a civil penalty, or if it finds a serious violation or pattern of abuse, may refuse to renew the station's license, in which case the station may no longer operate.

[6]47 U.S.C. § 303a(d).

[7]47 C.F.R. § 25.701(e).

[8]47 C.F.R. § 73.671.

programming directed at children, including programming that is or is not educational and informational.[9] FCC rules broadly define core children's programming as any programming that is specifically designed to further the educational and informational needs of children 16 years of age and under in any respect, including the child's intellectual/cognitive or social/emotional needs. In addition, to be considered core children's programming the program must satisfy the following criteria:

- It has serving the educational and informational needs of children ages 16 and under as a significant purpose.
- It is aired between 7:00 a.m. and 10:00 p.m.
- It is a regularly scheduled weekly program.
- It is at least 30 minutes in length.
- It is identified on-screen throughout the program using the symbol 'E/I' so that viewers may identify the program as educational and informational.
- The educational and informational objective of the program and the age range of the target audience are specified by the broadcaster in a Children's Television Programming Report that is filed quarterly with FCC and included in the broadcaster's public inspection file. Among other things, this report identifies efforts made by the broadcaster during the preceding quarter to serve the educational and informational needs of children.
- The program's identification as educational and informational and an indication of its intended age group are provided to publishers of program guides. Such program guides could include newspapers, magazines, or cable operators and satellite providers for their on-screen program guides.

Broadcast stations use the above FCC definition and criteria as a guide to determine if a program can be classified as core children's programming.

[9]The ages relevant to core children's programming and to advertising during children's programming differ within FCC rules: the core children's programming criteria apply to programming for children aged 16 and younger; the limits on the amount and kind of advertising in children's programming apply to programming for children aged 12 and younger.

It is up to a broadcast station's management or other personnel to determine which programming will be designated by the station as its core children's programming.

To increase children's access to educational and informational programming, FCC's rules state that broadcast stations that air a minimum of 3 hours of core children's programming per week are eligible to have the children's programming portion of their license renewal application approved by FCC staff rather than by the full Commission. This rule, while not requiring core children's programming, represents an incentive to broadcasters because approval by the full Commission could delay the renewal.[10] Thus, to avoid Commission-level review, most stations choose to air at least 3 hours of core children's programming per week. In anticipation of the digital television transition, FCC expanded this incentive to include multicast channels—that is multiple channels aired by a single broadcast station.[11] Digital stations providing more than one stream of free programming are eligible for staff-level review of their license renewal application if they air at least 3 hours of core children's programming per week on their main channel and additional hours on their multicast channels.

Advertising Rules for Broadcasters, Cable Operators, and Satellite Providers

To shield children aged 12 and under from excess advertising, CTA limits advertising shown during children's programming by broadcasters and cable operators to a maximum of 10.5 minutes per hour on weekends and 12 minutes per hour on weekdays.[12] FCC has also developed rules to create a clear distinction between program content and advertising in children's programs. For example, characters from a program are prohibited from appearing in or delivering advertisements during that program, an action known as "host-selling." These rules apply to commercials during any programming developed and intended for children 12 and under, including most, but not all, core children's programming

[10]Stations can also be eligible for FCC staff-level review of their license renewal application by airing a package of different types of educational and informational programming—for example, specials, public service announcements, or regularly scheduled non-weekly programs with a significant purpose of educating and informing children—that total less than 3 hours per week, but demonstrate a level of commitment that is at least equivalent to airing 3 hours per week of core children's programming.

[11]Among other things, digital technology allows digital broadcast stations to simultaneously broadcast multiple channels instead of only a single channel.

[12]Satellite providers were later included by FCC rule.

because core children's programming can be intended for children up to age 16. FCC strengthened and expanded its rules in 2004 and 2006 to include additional aspects of advertising, such as prohibiting the display of some Internet web addresses during children's programs. These rules do not apply to commercials during programming intended for a general audience, such as a game show, even though children 12 and under may be watching. Table 1 summarizes key FCC rules and to whom they apply.

Table 1: Summary of Key FCC Rules Related to the Children's Television Act of 1990 and Who They Apply to

Rules	Applies to commercial broadcasters[a]	Applies to non-commercial/ educational broadcasters[b,c]	Applies to cable operators[d]	Applies to satellite providers[e]
Incentive to air at least 3 hours per week of core children's programming.	✓	✓		
Submit quarterly reports to FCC on core children's programming aired (Children's Television Programming Reports).	✓			
Maintain a public inspection file with information regarding core children's programming.	✓			
Maintain a public inspection file with information regarding advertising during children's programming.	✓		✓	✓
Limit advertisements shown during any program for children 12 and under to no more than 10.5 minutes per hour on weekends and 12 minutes per hour on weekdays.	✓		✓	✓
Advertisements aired during any program for children 12 and under cannot include characters from that program (known as 'host-selling').	✓		✓	✓
Inform publishers of program guides of the station's core children's programming.	✓			

Source: Various rules listed below.

[a]47 C.F.R. §§ 73.671, 73.3526(e)(11), 73.670, 73.673.

[b]FCC's rules on advertising in children's programming do not apply to non-commercial educational television stations. In addition, FCC excluded these stations from the requirement to prepare and file quarterly children's programming reports and from other public information initiatives required of commercial stations in part to avoid imposing unnecessary constraints on such broadcasters and in part in recognition of the commitment made by non-commercial educational stations in general to serve children.

[c]47 C.F.R. § 73.671.

[d]47 C.F.R. §§ 76.1703, 76.225.

[e]47 C.F.R. § 25.701.

Children's Programming Has Increased with Varying Requirements for Complying with the Act

Core Children's Programming on Commercial Broadcast Television Has Increased as a Result of More Channels and Stations

The amount of core children's programming aired by commercial broadcast stations in the television markets we reviewed increased significantly from 1998 to 2010, with the increases ranging from 73 percent in the smallest market (Butte-Bozeman, Montana), to 477 percent in the largest market (New York, New York).[13] As shown in table 2, the average weekly hours aired more than doubled for six markets. As a result, viewers of broadcast television in these markets have more educational and informational core children's programming available to them.

Table 2: Hours of Core Children's Programming Increased in Eight DMAs from 1998 to 2010

DMA	1998 Total average weekly hours	2010 Total average weekly hours	Percent change in weekly hours
Butte-Bozeman	11	19	73
Charleston	22	108	391
Dallas-Fort Worth	52	134	158
Denver	40	151	278
Grand Rapids-Kalamazoo-Battle Creek	38	129	239
New York	56	323	477
San Diego	18	31	72
Spokane	27	85	215

Source: GAO analysis of FCC data.

Note: Amounts have been rounded to the nearest whole number.

[13] We discuss increases in children's programming offered on cable later in this report.

Based on our analysis, these changes are likely due to two trends: (1) increases in the number of channels and broadcast stations and (2) the emergence of some broadcast stations that air large amounts of children's programming. The digital television transition prompted many broadcast stations to increase the number of channels that they broadcast, a concept known as "multicasting."[14] At the end of 2010, half of all full-power commercial broadcast stations nationwide were multicasting a total of more than 1,000 additional channels.[15] Table 3 shows the changes in the number of television stations and channels in the markets we analyzed. New broadcast stations also help account for the increase in core children's programming. Nationwide, there was an increase of 754 licensed commercial broadcast stations, from 3,349 in 1998 to 4,103 in 2010—a 23 percent increase. Six of the eight markets we studied added at least two television stations that are required to air core children's programming. For example, the Grand Rapids market added two stations while the New York market added four. New broadcast channels and stations tend to increase the total amount of core children's programming because each additional station and full-time channel must air additional core children's programming per week to receive FCC staff-level approval at license renewal.

[14]By June 2009, all full-power television stations in the United States transitioned from using an analog signal to a digital one. Whereas before the digital transition, each television station broadcast a single channel, after the transition each station has the capability of broadcasting multiple channels. Other types of broadcast television stations, such as low-power stations, are not required to transition and some continue to broadcast an analog signal.

[15]Less than 1 percent of low-power stations were also multicasting.

Table 3: Numbers of Commercial Broadcast Stations and Channels Increased in Eight DMAs from 1998 to 2010

DMA	1998 Number of stations	2010 Number of stations	Percent change in number of stations	1998 Number of channels	2010 Number of channels	Percent change in number of channels
Butte-Bozeman	3	3	0	3	5	67
Charleston	5	7	40	5	11	120
Dallas-Fort Worth	16	17	6	16	30	88
Denver	11	18	64	11	28	155
Grand Rapids-Kalamazoo-Battle Creek	8	10	25	8	20	150
New York	14	18	29	14	41	193
San Diego	5	7	40	5	10	100
Spokane	6	9	50	6	14	133

Source: GAO analysis of FCC data.

Note: Percentages have been rounded to the nearest whole number.

Increases in core children's programming have also resulted from the small number of commercial broadcast stations that have emerged in some markets that air significantly more than 3 hours of core children's programming weekly. Prior studies of core children's programming have shown that most commercial broadcast stations aired an average of 3 to 4 hours of core children's programming per week and none of the stations we analyzed aired more than 10 hours per week in 1998. In 2010, however, several stations aired much larger amounts. For example, one commercial broadcast station in Charleston reported airing an average of more than 82 hours per week, representing more than 75 percent of the total weekly core children's programming aired on the 11 channels in the market. In some cases, these stations air more than all the other stations in a given market combined. For example, one commercial broadcast station in Grand Rapids reported airing an average of 66 hours a week of core children's programming, compared to a combined total of 63 hours reported by the other stations in the same market. None of the stations airing significantly more than 3 hours of core children's programming are affiliated with one of the major television networks.[16]

Core children's programming was more available in 2010 than 1998 in that it airs across a wider range of days and times, for children of different ages. Availability of such programming is an important factor since the

[16]For the purposes of this report, the major networks include ABC, CBS, Fox, and NBC.

developmental needs of children vary by age. FCC regulations define core children's programming to meet the educational and informational needs of children aged 16 and under and require that stations identify the intended age range for each program. FCC does not require broadcasters to target programming for specific age groups but FCC noted that research has demonstrated that the ability of young children to comprehend television content varies by age, and that educational programming should be targeted to an age range spanning no more than 3 to 4 years to ensure that its content is appropriate to the developmental level of the intended audience. Even though broadcasters are airing more programming than previously, if programming for specific age groups within a market is aired at the same time, overall availability may be limited.

In the markets we studied, core children's programming is generally less concentrated on the weekends and more programs are aired throughout the week than in 1998. In 2010, the percentage of all programming aired on the weekend declined while the percentage during the week increased in five of the eight markets we reviewed. We also found that core children's programming in the markets we reviewed is more available at different times and for children of different ages than in 1998. To demonstrate the broader availability of this programming in 2010, GAO calculated the portion of each day—that is, between the hours of 7:00 a.m. and 10:00 p.m. when core children's programming can be aired per the FCC regulation—when at least one program aired for children of three different ages. For this analysis, we chose the ages of 4, 8, and 13. For each of these ages, the analysis shows the percentage of the day in each of the markets when any programming is aired. For six of the eight markets we looked at, the availability of core programming for all three age groups increased significantly, as shown in table 4. In the remaining markets, availability increased for 4-year olds and 13-year olds.

Table 4: Percent of Time That Programming Is Available during Core Children's Programming Hours (7:00 a.m. to 10:00 p.m.) in Eight DMAs in 1998 and 2010

	Programming for a 4-year old			Programming for an 8-year old			Programming for a 13-year old		
DMA	**1998**	**2010**	**Change**	**1998**	**2010**	**Change**	**1998**	**2010**	**Change**
Butte-Bozeman	1	3	⇧	4	4	⇔	2	10	⇧
Charleston	7	35	⇧	12	27	⇧	5	13	⇧
Dallas-Fort Worth	15	43	⇧	21	41	⇧	9	18	⇧
Denver	13	53	⇧	20	54	⇧	10	21	⇧
Grand Rapids-Kalamazoo-Battle Creek	13	71	⇧	20	63	⇧	7	13	⇧
New York	18	61	⇧	27	70	⇧	12	37	⇧
San Diego	4	5	⇧	9	7	⇩	5	11	⇧
Spokane	9	45	⇧	11	49	⇧	5	14	⇧

Source: GAO analysis of FCC data.

Note: Amounts have been rounded to the nearest whole number.

The Amount of Children's Programming on Cable and Satellite That Must Comply with Advertising Limits Has Increased

Children's programming on cable and satellite services has also increased, expanding the impact of the act's advertising limits, which restricts the duration of commercials and requires their separation from children's programming. The number of channels on cable and satellite that focus either mostly or exclusively on children's programming has expanded from two channels in 1990 to at least eight in 2010. Some of these channels show children's programming 24 hours per day and 6 of the 8 channels air commercials. Since FCC rules allow up to 12 minutes of commercials per hour during children's programming on weekdays and 10.5 minutes per hour on weekends, the potential amount of advertising on these channels increases in direct proportion to the increase in programming and is thus much higher than it was in 1990.

In addition, more households have access to this increased programming and advertising. According to FCC, fewer households rely on broadcast only for television; most instead get programming from a cable operator or satellite provider. FCC reported in 2007 that 87 percent of television households subscribe to a service provided by a cable operator or satellite provider, up from 56 percent in 1990.[17] Children's programming

[17] Annual Assessment of the Status of Competition in the Market for the Delivery of Video Programming, Thirteenth Annual Report, 24 FCC Rcd 542 (2009).

channels are carried by the largest cable operators and satellite providers, making some of them available to nearly 100 million households. Although not generalizable, most of the parents in our focus groups also subscribed to a cable or satellite service at home—83 of 90 participants, or 92 percent—and many perceived that this service is better for children than broadcast. For example, parents in most of the focus groups we conducted said that their children did not watch commercial broadcast television. With expanded core children's programming on broadcast television and increased programming and viewers of cable and satellite services, the impact of the act's advertising limits also increases due to the larger amount of advertising subjected to the act.

Emerging Platforms for Children's Video Programming Are Outside the Scope of the Act

Children are also using other media platforms—computers, wireless devices such as cell phones, video game consoles, and MP3-type players—to access television programming that does not have to meet any of the requirements of CTA. A 2010 report from the Kaiser Family Foundation found that the amount of time children spent watching regularly scheduled programming on television declined by nearly half an hour per day, but time spent watching television programming on other platforms increased by nearly an hour.[18] The act does not extend to content viewed from these other sources; therefore, this content is not required to comply with the core children's programming or advertising limits established in the act. For example, commercials presented as part of a program viewed on another platform are not required to conform to time or content restrictions. As other media sources account for a larger percentage of children's program viewing, parents may become less able to rely on the E/I symbol to identify educational and informational television for their children and the advertising limits placed on television become less effective.

[18] Victoria J. Rideout, M.A., Ulla G. Foehr, Ph.D., and Donald F. Roberts, Ph.D., *Generation M^2: Media in the Lives of 8- to 18-Year Olds, A Kaiser Family Foundation Study* (January 2010).

FCC Relies on Broadcasters to Self-Report Violations but Lacks a Corresponding Oversight Approach for Cable Operators and Satellite Providers

FCC's Oversight of Broadcasters Generally Relies on Stations to Self-Report Violations

CTA tasks FCC with overseeing broadcast stations' efforts to provide educational and informational television programming for children. With respect to enforcing the act's and FCC's rules on advertising limits, however, FCC relies on stations to self-report violations during the license renewal process. The FCC must consider the extent to which broadcast stations have complied with their legal requirements, including CTA, when reviewing their license renewal applications.[19] The application asks stations to certify that they have complied with their legal obligations; stations that are unable to certify that they met their obligations must attach an explanation to the application. For example, if stations exceed the advertising limitations, they are expected to include an explanation as to how and why they exceeded the limits. According to FCC staff and officials from commercial broadcast stations, broadcasters are motivated to provide truthful information on their license renewal application, even if it results in a civil penalty. Any unreported violations or other misrepresentations could result in increased civil penalties or the eventual loss of a station's license.

According to FCC officials, almost all FCC enforcement actions related to children's television have stemmed from stations self-reporting violations during the license renewal process. The most common violation

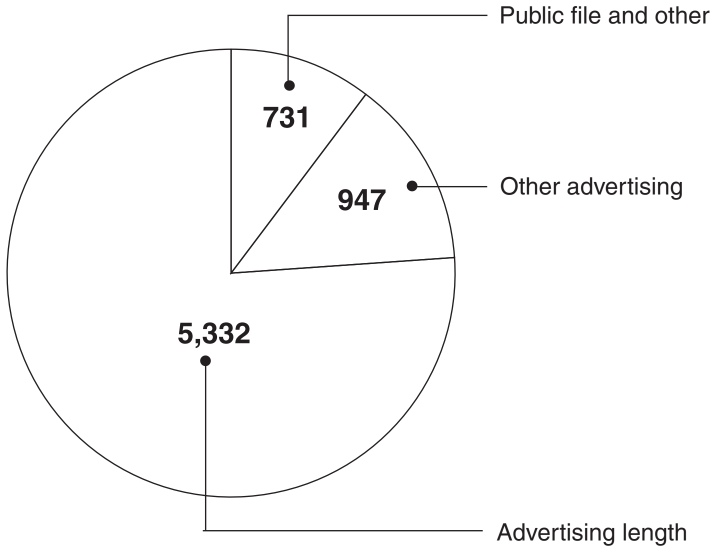
[19]Broadcast stations are required to have a license in order to air programming. In general, broadcast stations apply for license renewal every 8 years. The two most recent license renewal cycles occurred in 1996 and 2004; the next license renewal cycle is scheduled to begin in 2012.

concerned running advertising exceeding allowed limits. Most of the enforcement actions that FCC has taken against commercial broadcast stations for violating rules regarding children's television have been written admonishments or civil penalties. According to FCC, the Commission will generally issue civil penalties for more serious violations, such as violations that occur over long periods of time; otherwise, FCC will generally issue a written admonishment. For the last two license renewal cycles in 1996 and 2004, FCC issued about 7,000 violations to over 600 stations, and assessed civil penalties totaling almost $3 million.[20] Most of these violations were advertising length violations—advertisements aired during children's programming that exceeded 10.5 minutes per hour on weekends or 12 minutes per hour on weekdays (see fig. 1). The remaining violations concerned other advertising problems—such as host-selling or failure to create a clear distinction between program content and advertising—or problems with a broadcast station's public inspection file—such as the station not including all the required children's programming documents in the file.[21]

[20]FCC also entered into an agreement with a nationwide broadcast network in 2007 to resolve children's programming issues. FCC determined that some stations affiliated with the network, whose licenses were being reviewed for renewal, had claimed programming as core children's programming when the programming was, in fact, not specifically designed to serve the educational and informational needs of children. The agreement between FCC and the nationwide broadcast network, known as a consent decree, required the network to make a contribution of $24 million to the U.S. Treasury and to create a compliance plan for the future. The consent decree does not place blame on the nationwide broadcast network or its affiliates and the financial contribution is not considered a civil penalty.

[21]For example, broadcast stations are required by FCC rules to keep copies of their Children's Television Programming Reports in their public inspection file. Failure to do so could result in an admonishment or civil penalty.

Figure 1: Types and Amount of Self-Reported Broadcaster Violations of FCC's Children's Television Rules, 1996 and 2004 License Renewal Cycles



Source: GAO analysis of FCC data.

During the licensed period, FCC also oversees compliance with the act. For example, it investigates complaints received from consumers regarding core children's programming. Furthermore, FCC reviews some quarterly filings made by broadcasters that describe the core children's programming aired by the station during the previous calendar quarter and scheduled to be aired the following calendar quarter. Through these reviews, FCC staff is able to identify stations that are not airing 3 hours per week of core children's programming. According to FCC officials, the Commission may informally ask the station for information as to why the station did not meet the 3-hour minimum.

In addition to enforcement efforts during the license renewal cycle, FCC also monitored the advertisements during a random selection of children's programs on selected commercial broadcast stations from 2000 to 2004 but stopped doing so after finding few violations. These monitoring efforts—which each year looked at about 25 stations and 2 to 4 hours of programming on each station—focused on verifying that the stations complied with the rules regarding advertising shown during children's programming.[22] FCC officials found one violation by a commercial

[22]The investigations conducted in 2003 and 2004 also included cable operators' compliance with these rules, which is discussed in greater detail in the next section.

broadcast station during the 5 years it monitored advertisements. According to FCC officials, the Commission stopped monitoring the advertisements after 2004 because of these limited results, determining that resources and staff should be used for other tasks.

Although CTA and FCC's enforcement focuses on stations' license renewal, enforcement actions are sometimes implemented mid-license term in response to an FCC random inspection of a station or a consumer complaint, thus necessitating that stations monitor the length and content of advertising aired during children's television programming. Staff from some commercial broadcast stations we spoke with stated that they have processes in place to actively monitor their children's programming in order to minimize and prevent violations, but staff from an independent commercial broadcast station said that they did not monitor the programming and would not know if the programming streams they aired violated the act.

Furthermore, FCC does not track potentially widespread advertising violations that occur at the network level and are aired by affiliated commercial broadcast stations. While commercial broadcast stations may self-report a violation during license renewal, FCC does not have a tracking mechanism in place to ensure the violation is actually reported by each licensee. For example, in December 2006 a nationwide network that provided children's programming and advertising to its affiliated commercial broadcast stations included an advertisement that violated FCC rules. In January 2007, the network issued a memorandum to its affiliated commercial broadcast stations explaining the incident and the steps that would be implemented to prevent such a violation from occurring again. The violation occurred toward the end of the previous license renewal period, which ran from 2004 to 2007. As such, most of the broadcast stations affiliated with this network have not yet filed their renewal application, which would cover this event; most will do so when the next license renewal period begins in 2012. Without a mechanism for tracking these types of widespread violations, FCC cannot verify that all affected stations are actually reporting the violation. FCC officials we spoke with recognized this issue and stated that the Commission could consider developing and implementing methods to ensure that similar violations are tracked by FCC and reported by broadcasters. According to FCC, the Commission has not established a tracking mechanism, in part, because such violations are generally reported by each licensee in its license renewal application.

FCC Does Not Currently Oversee Cable and Satellite Providers' Compliance with Advertising Requirements, Resulting in Unbalanced Enforcement

CTA's advertising requirements apply to cable operators as well as commercial broadcasters and, as stated, FCC has extended similar requirements to satellite providers by regulation. Unlike broadcast stations, however, cable operators and satellite providers do not go through the kind of license renewal process required to maintain an over-the-air broadcast license.[23] As such, FCC does not have the same opportunities to review compliance with the act and FCC rules as it does with broadcast stations. According to FCC officials, no cable operator or satellite provider has ever voluntarily self-reported any violations of the act to FCC. Additionally, unlike the license renewal application process for broadcasters, FCC lacks a mechanism for cable operators or satellite providers to certify compliance with the act and identify advertising violations, even though cable operators and satellite providers are required to maintain records in their public inspection file that are sufficient to verify compliance with FCC rules, and are subject to investigations of consumer complaints by FCC.

FCC investigators have conducted reviews of cable operators' and satellite providers' public inspection files to ensure that these entities are maintaining records sufficient to verify compliance with FCC rules regarding advertising during children's programming. FCC investigators found five instances between 2005 and 2010 in which cable operators did not maintain sufficient records. All of the violations were for cable operators, not satellite providers, and none resulted in civil penalties.

As noted above, FCC monitored commercial broadcast stations' compliance with advertising rules from 2000 to 2004; the 2003 and 2004 investigations also observed cable operators' compliance.[24] FCC found two cable operator violations in 2003 and none in 2004. These violations occurred on separate networks that were carried by cable operators across the country, reaching over 85 million households. One of the violations involved advertising that conflicted with FCC's advertising content rules that was later determined to have been repeated 31 times over the course of about 1 year. The other violation involved advertising that exceeded FCC's advertising time limits 591 times, representing over 1,000 30-second commercials. The act and FCC rules make cable

[23] CTA section 103 does not apply to cable operators or satellite providers. Pub. L. No. 101-437, § 103, 104 Stat., 997 (codified at 47 U.S.C. § 303b).

[24] FCC did not monitor satellite providers' compliance because the act's requirements were not applied to satellite providers until 2004.

operators, not the networks that provide them the programming, responsible for complying with the advertising limit rules. However, in these two cases, the networks made voluntary contributions to the U.S. Treasury, since they provided cable operators with the programming in question.[25]

FCC discontinued its investigations after 2004 and since then other advertising violations may have occurred. Over the same period of time that broadcasters reported over 6,000 advertising violations, cable operators and satellite providers have not reported any, and FCC only identified two advertising violations despite the large amount of children's television programming aired by cable operators and satellite providers as compared to that aired by commercial broadcast stations. A senior FCC official stated that FCC cannot be certain that there are no advertising violations occurring on programming offered by cable operators or satellite providers. We found an advertising industry self-regulatory organization that identified advertising that potentially violated FCC's advertising rules in 2006. The advertising included pictures of a DVD featuring characters from the program during which the commercial aired. The responsible network acknowledged the violation and attributed it to human error. However, when asked, a senior FCC official told us that he was unaware of this potential violation and that FCC did not issue a civil penalty.

As previously noted, FCC officials told us that they discontinued oversight monitoring because most entities were found to be in compliance with the rules and because enforcement staff and resources were dedicated to higher-priority needs. In response to our findings, FCC told us that the Commission currently has plans to conduct oversight of cable operators' and satellite providers' compliance with advertising rules on a consistent basis. A senior FCC official also said that the Commission has methods to oversee cable operators' and satellite providers' compliance with advertising rules. For example, certain FCC offices subscribe to cable or satellite services which would permit such offices to monitor compliance. This and similar efforts would permit the Commission to have a better understanding of advertising shown on stations offered by cable operators or satellite providers. Without oversight, FCC cannot ensure

[25] To avoid a potentially time-consuming and resource-intensive investigation, each network entered into a consent decree with FCC in which they agreed to make voluntary contributions in the amount of $500,000 and $1,000,000, respectively.

that cable operators and satellite providers are complying with the act, potentially exposing children to excess or inappropriate advertising that the act and FCC rules seek to minimize and leading to unbalanced enforcement.

Concerns Remain about the Quality and Educational Value of Some Core Children's Programming, but Regulating Program Content Is Challenging

While some definitions and standards for educational children's programming do exist—for example, PBS developed and implemented a set of guidelines for use in producing its children's programming—there are no broadly accepted industry standards for educational programming that broadcasters can use. FCC officials told us that the definition of core children's programming as currently established in FCC rules is intentionally broadly written so as not to dictate specific programming content. They said that a prescriptive definition of what constitutes educational and informational programming could be seen, in their view, as an attempt by the government to regulate program content, which could potentially violate the free speech provision of the First Amendment to the U.S. Constitution. Broadcasters are responsible for selecting core children's programming and certifying that it adheres to the definition established by FCC rules. However, without standards, broadcasters can not be sure that their programming is educational and informational under the act.

FCC relies on the public, including parents and child advocacy groups, to monitor and react to core children's programming content. FCC officials stated that by doing so, the Commission intends for the public's complaints to prompt broadcasters to self-regulate. While the public has rarely filed complaints regarding the content of children's programming with FCC, some child advocacy groups have chosen to file petitions to deny license renewal with FCC regarding the quality of core children's programming content aired by some broadcast stations.[26] For example, in a still pending case from 2004, a group filed a petition to deny the license renewal of a broadcast station operating in the Washington, D.C., area. In the petition to deny, the group cited a children's media expert's analysis of a program shown on the broadcast station. The expert noted that the

[26] A petition to deny is a method that individuals or groups can use to file complaints against a broadcast station. The petition is filed after the station has submitted its license renewal application and must contain specific allegations that FCC's renewal of the license would be "inconsistent with the public interest." FCC is then to consider the content of the petition to deny when deciding whether to renew the broadcast station's license. See 47 C.F.R. § 1.939.

program, designated as core children's programming, had "no palpable message, lessons, or curriculum at even the most modest level of depth that would contribute to a child's positive development in any sense."[27]

A lack of content standards makes it difficult for stakeholders—such as parents, educational groups, and broadcasters—to evaluate the educational content of core children's programming and could lead to wide variation in that content. Some child advocacy groups have raised concerns regarding the quality of core children's programming content, generally stating that the content of these programs is neither educational nor informational. For example, one group reviewed 90 episodes of core children's programming and used a variety of criteria—including the clarity of the lesson presented and its applicability to the real world—to determine the quality of those episodes. According to the study,[28] the group determined that the vast majority of the episodes it reviewed (86 percent) were either minimally or moderately educational; only 13 percent were deemed highly educational. The same study noted that the percentage of core children's programs that it considers to be highly educational fell over a 10-year period (from the 1997-1998 season to the 2007-2008 season), from 29 percent of core children's programs to 13 percent of core children's programs. Another study examining the quality of children's television programs,[29] which used a different set of criteria to judge program quality, determined about 60 percent of programs were of moderate or low quality, with the remaining roughly 40 percent being of high quality.

When commenting on an FCC notice of inquiry regarding the evolving media landscape, the National Association of Broadcasters urged FCC to continue its practice of relying on broadcast stations to certify that the stations' core children's programming serves the educational and informational needs of children. The National Association of Broadcasters

[27]Petition to Deny Application of Renewal of Broadcast Station License of Fox Television Stations, Inc., WDCA, Washington, D.C.: File No. BRCT-20040527AKL (filed Sept. 1, 2004).

[28]Barbara J. Wilson, Dale Kunkel, and Kristin L. Drogos, *Educationally/Insufficient?: An Analysis of the Availability and Educational Quality of Children's E/I Programming*, a special report prepared at the request of Children Now, November 2008.

[29]Amy B. Jordan and Kathleen Hall Jamieson, *The State of Children's Television: An Examination of Quantity, Quality, and Industry Beliefs*, a special report prepared at the request of the Annenberg Public Policy Center of the University of Pennsylvania, June 1996.

noted that FCC has very limited authority to regulate program content. However, personnel at some broadcast stations we talked to said program quality was not a high priority when selecting which core children's programs to air, expressing greater concern about meeting the minimum requirements of the act. As we discuss later in this report, parents in our focus groups believed that there should be independent standards or oversight and that station involvement in designating core children's programming represented a conflict of interest.

FCC has previously collaborated with the media industry to implement CTA and address other concerns. For example, FCC and stakeholders collaborated in the rulemaking process to reach agreements on several rules implementing the act, including the minimum number of hours of core children's programming to be aired per week, as well as the extension of this minimum to each multicast channel. In the 1990s, FCC recognized stakeholders' development of a voluntary television rating system to address concerns about violent, sexual, or other content in programs as meeting statutory requirements. This rating system still exists and several parents in our focus groups noted that they use the ratings in deciding which programs their children watch.

FCC took steps to renew the dialog about children's programming in 2007 by seeking public comments on the status of children's programming. In 2009, FCC issued another notice of inquiry to collect broader information about a changing media landscape which included some questions about children's television programming. Within that notice of inquiry, FCC asked about the quality of core children's programming provided by broadcast stations. Comments submitted in response to the notice disagreed over the quality of core children's programming. The notice of inquiry recently closed and FCC is still considering what further action, if any, it will take in this proceeding. Without more specific standards of what constitutes educational and informational programming, the extent to which core children's programming aired today is actually educational and informational remains unclear and, thus, whether a broadcaster's compliance is in fact meaningful.

Parents in Focus Groups Were Generally Unaware of the Act and May Draw Incorrect Conclusions about Core Children's Programming, but Valued Educational Children's Programming

Despite FCC Efforts, Parents Are Uninformed about the Act and Its Requirements, Potentially Leading to Incorrect Conclusions about Core Children's Programming

FCC has emphasized the importance of parents' knowledge of CTA and taken steps to educate parents about the act's provisions. FCC has stated that the act's effectiveness and, thus, the effectiveness of the core children's programming aired as a result of the act, is, in part, dependent on parents' knowledge of children's educational programming. The FCC's 1996 Order on Children's Television states several benefits of educating parents on the act including that (1) public access to information would permit the FCC to rely on marketplace forces to achieve the goals of the act and facilitate enforcement through public monitoring and (2) information on core children's programming would assist parents in planning their children's viewing.[30] To that end, FCC efforts to educate the public include requirements that stations (1) display an E/I symbol on-screen during core children's programming, (2) maintain a public inspection file detailing the station's core children's programming available to the public, and (3) supply publishers of programming guides with information on core children's programming.

We found, however, that parents are largely unaware of CTA's contents despite FCC efforts. For example, although not generalizeable, we found that some parents in focus groups we conducted were unaware that any

[30]Policies and Rules Concerning Children's Television Programming: Revision of Programming Policies for Television Broadcast Stations, Report and Order, 11 FCC Rcd 10660 (1996).

children's programming was aired on commercial broadcast stations at all. Most parents in our focus groups also did not recognize the E/I symbol or know its meaning. Specifically, of 90 focus group parents, 44 recognized the E/I symbol, but only 2 parents across all focus groups knew what the symbol meant. Of the parents who thought they may have seen the symbol before, many stated they may have seen it on PBS member stations, which air a large amount of core children's programming.

In addition to this on-screen requirement, FCC requires broadcast stations to maintain a public inspection file at the station location that is available to the public and details the station's core children's programming and air times in addition to program descriptions. Broadcast station staff that we spoke to stated that members of the public rarely seek access to this information. FCC has adopted a rule that would require public inspection files to be made accessible via the station's Web site, but this rule is not yet in effect.[31]

The most frequently cited tools for finding information on children's television in our focus groups were programming guides, internet searches, and other parents, but FCC's efforts and rules involving these outlets may not be effective. While parents in our focus groups stated that they look for information on children's programming in their programming guide, cable operators and satellite providers are not required to, and generally do not, publish this information.[32] Parents in our focus groups also stated that Internet searches are an important tool for them to find children's programming. FCC's 'Parents' Place' Web site provides parents and other members of the public with information on stations that

[31]In March 2008, FCC adopted a rule amending 47 C.F.R. § 73.670, that when effective would require public inspection files to be made accessible via the station's Web site. Because FCC planned to submit the rule to the Office of Management and Budget (OMB) for approval under the Paperwork Reduction Act of 1995, Pub. L. No. 104-13, as amended (codified at 44 U.S.C. ch. 35), FCC deferred setting an effective date, stating that it would do so once OMB approval was obtained. 73 Fed. Reg. 13452 (2008). No effective date has been set as of May 2011 because, as FCC officials stated, FCC has not submitted the rule to OMB and because petitions for reconsideration of the rule, as well as intervening litigation, have not been resolved.

[32]While FCC recognized in the 1996 Order that publishers of program guides are not required to publish such information, the Order stated the hope that, if stations are required to provide information on core children's programming to the publishers on a regular basis, publishers would be more likely to include the information in program guides. Revision of Programming Policies for Television Broadcast Stations, 11 F.C.C.R. 10660, 10682 (1996).

air core children's programming, broadcast times, and general background information on the programs. However, we found that this site was difficult to find using popular internet search engines and a variety of search terms.

Past studies, as well as statements from parents in our focus groups, indicate that parents remain generally unaware of CTA or that core children's programming is even available. Without knowledge of the act's existence, parents are unable to seek out information on core children's programming through the outlets provided by the FCC, including the public inspection files, the 'Parents' Place' Web site, and on-screen tools such as the E/I symbol. As a result of these disconnects between FCC efforts and parent knowledge, parents are unable to find and take advantage of the core children's programming provided as a result of the act.

In addition to a lack of knowledge about the act, when parents in our focus groups were informed about its existence and core children's programming we asked what their expectations would be for television programs that have the E/I label, as opposed to programs that do not have the label. Their beliefs about the requirements that should apply to such programming were more stringent than current rules. For example, parents in most of our focus groups stated that they believed that a panel or review board consisting of a variety of experts and stakeholders should review and approve core children's programming. Some parents believed or assumed that core children's programming was designated in the same way that television programs and movies are rated, that is, using rating systems implemented by the National Association of Broadcasters, National Cable & Telecommunications Association, and Motion Picture Association of America. Parents in five of the focus groups stated that they believed set criteria should exist for how programs are designated as core children's programming.

In addition to these beliefs about the process of core children's programming designation, parents within and across the focus groups we conducted had varying beliefs about the types of groups that should be involved in the process. Parents disagreed about the extent to which local, state, and federal governments should be involved; however, parents in all 10 focus groups stated that the television industry (including producers, stations, and networks) should have either limited involvement or no involvement, citing a conflict of interest. A small number of parents approved of industry involvement. However, the core children's programming provided under the act is designated as such by each broadcast station that airs the programming and neither the FCC nor any independent group is responsible for reviewing or approving the designation. Regarding criteria, while FCC rules do require that core children's programming have as its significant purpose the educational and informational needs of children, this limited criteria for core children's programming content does not align with parents' beliefs about what should be required under the act. Further, resources provided by FCC to inform parents about the act, such as the 'Parents' Place' Web site and the E/I on-screen symbol, do not provide parents with detailed information on the process of designating core children's programming as such.

Without a clear understanding of the limitations of the designation and content requirements for core children's programming, parents run the risk of allowing their children to watch programming they would not otherwise allow. For instance, after learning about the act's existence and stating their beliefs about the designation process for core children's programming, some parents in our focus groups stated that they would use the E/I symbol as a determining factor when choosing programming for their children, but others stated they would not rely on the symbol at all or would use it as a guide to choosing programming in addition to other information sources.

Focus Group Parents Valued Appropriate and Educational Content in Children's Programming, but Found Cable and Satellite Programming to Be More Trustworthy Than Broadcast

When discussing children's programming in general, parents in our focus groups stated that important aspects of such programming include that it be educational, generally appropriate for children, and entertaining.[33] Although not generalizeable, parents who participated in our focus groups stated the following characteristics as desirable features for children's television:

- *Appropriate:* Parents valued non-violent programs that display morals and positive examples for children.
- *Academics:* Parents valued programs that taught subjects such as reading, foreign languages, and counting, as well as programs that challenge children to think and ask questions.

[33] Because parents in our focus groups were generally unaware of CTA, they were unable to discuss core children's programming specifically.

- *Life lessons:* Parents valued programs that presented age-appropriate life lessons for children, such as the importance of brushing teeth for young children.

- *Entertainment value:* Parents valued programs that were entertaining to their children.

- *Family entertainment:* Parents valued programs that they would watch with their children and provided entertainment for a wide age range.

Conversely, parents stated the following characteristics as negative features of children's television:

- *Advertising:* Parents in several focus groups stated that children are too affected by the amount and content of commercials they see.

- *Bad examples:* Parents noted several negative examples, such as children's programs with characters that (1) engage in adult activities, (2) bully others, or (3) encourage materialistic behaviors.

- *Inappropriate content:* Parents noted dissatisfaction with programs that are violent, encourage use of foul language, or portray sexual situations or nudity.

While some parents in 6 of the 10 focus groups we conducted stated that they see children's television primarily as a means of entertainment, with a parent in one group stating that educational content is not necessary, other parents in five focus groups saw educational content as one of the most important features of children's television. Parents also had differing opinions on what constitutes educational television programming, with some stating that they were personally unclear of how to define such programming. Some parents in our focus groups said that the definition of educational can depend on the age and the preferences of the child. For instance, parents in one focus group stated that they preferred programs that did not teach life lessons because they prefer to teach those lessons themselves according to their own values. Additionally, parents expressed wide variation in programs that they consider to be educational. Programs they mentioned included themes such as spelling, counting, science, and reality programs focused on law enforcement and teen pregnancy.

Some focus group parents generally viewed cable and satellite television, along with a small number of broadcast stations like PBS member stations and Qubo,[34] as more trustworthy sources for children's programming than most broadcast stations. Furthermore, some parents stated that their children do not watch programs on commercial broadcast stations at all. Parents cited several reasons for this. First, parents like that there is less risk of children being exposed to inappropriate content, such as commercials or programs not meant for children, on cable and satellite networks or stations geared toward children's programming than on most broadcast stations. Second, parents stated that it is easier for children and parents to rely on channels that focus primarily (or exclusively) on children's programming instead of broadcast channels that only air a few hours per week. For example, one parent stated that, on cable channels, no matter what children want to watch, the programs are always available. Third, some parents stated that there is not enough children's programming on broadcast stations or the programming is repeated too often.

We also found that parents in many of our focus groups perceived a gap in the programming available for children of certain ages. Our trend analysis showed that children's programming is available for a wide range of age groups, but parents in 8 of the 10 focus groups we conducted raised the issue of a lack of programming appropriate for school-aged children; parents in five of those eight focus groups specifically stated that there was a lack of educational children's programming for this age group. The age range of this perceived programming gap as stated by parents varied and included, in some cases, children as young as 6 and as old as 15. For instance, one parent of a child between 6 and 9 stated that high-quality educational programs are generally meant for children aged 5 and under and that programs on some popular children's cable networks are aimed at children older than 9. The parent believed that this gap leads her child to watch lower-quality programs because they are the only ones aimed at children between 6 and 9 years old. Lending credence to this perceived gap in programming, we found during our trend analysis that the age range provided for some programs varied widely among commercial broadcast stations and television markets. For instance, one program is listed in various markets as being appropriate for three separate age groups: ages 2 through 5, ages 6 through 10, and ages 10 through 14. Parents' perception of this gap may be heightened by PBS, which has chosen to focus its programming on children younger than 8

[34] Qubo is one multicast channel aired by the ION broadcast network with stations in more than 50 markets and is also carried by cable operators in some markets. Qubo airs children's programming, including a large amount of core children's programming, 24 hours per day in these markets.

years of age. PBS officials said that children ages 2 to 8 are the age group most in need of high-quality television.

Conclusions

FCC's reliance on broadcasters to self-report violations to the Children's Television Act and related FCC advertising rules has limits—it depends upon commercial broadcast stations closely monitoring their own compliance and being sufficiently motivated to report their violations. Nonetheless, it has been much more effective than FCC's oversight of cable and satellite advertising restrictions. Since the act went into effect, broadcasters have self-reported about 7,000 advertisement and public file violations. During the same period, FCC has only identified seven violations by cable operators and satellite providers even though they face these same requirements and generally televise much more children's programming than any individual broadcaster. The imbalance in enforcement has resulted from a lack of oversight by FCC. FCC officials told us that the Commission has not consistently enforced cable and satellite compliance with CTA and FCC's rules since 2004 and has no way of knowing if violations have occurred. Any possible violations would have exposed children to excessive advertisements. In addition, parents in several of our focus groups cited advertisements as one of the things they disliked the most related to children's television.

The range of stakeholders on this issue disagree about the quality of the educational content of core children's programming and there are no generally accepted standards by which to measure that quality. Some child advocacy groups have charged that much of broadcasters' core children's programming lacks educational value, and some broadcasters said that educational content was not a top priority in selecting the programming. Furthermore, most parents in our focus groups already believed that core children's programming should meet set standards or receive independent approval before being certified educational and informational by broadcasters. FCC officials agree that there are no standards but said that the government is limited in what it can require without impinging on broadcasters' free speech rights afforded under the First Amendment to the U.S. Constitution. However, FCC has effectively worked with industry stakeholders in the past to develop voluntary guidelines in other contentious areas, such as the voluntary television rating system. Without such standards, moreover, broadcasters will remain vulnerable to questions of the extent to which core children's programming is, indeed, educational and informational.

Educational standards, however, do not matter unless children benefit from core children's programming. Despite efforts by FCC and broadcast stations to inform the public about core children's programming provided under the act, many parents are not aware of the act or its requirements for children's programming. Most parents in our focus groups said that their children do not watch broadcast television and many did not even realize that commercial broadcast stations still televise children's programs. Only 2 of 90 parents who participated in our focus groups actually knew what the E/I label meant. Parents said that they look for information related to children's programming on the Internet, but detailed information on the process of designating core programming as such is not readily available to parents through popular Internet search engines. Until stakeholders are able to agree upon standards for and increase public awareness of the core children's programming provided as a result of the act, children will not fully benefit from the broadcasters' efforts to comply with the act.

Recommendations for Executive Action

To help ensure that children more fully benefit from the Children's Television Act of 1990, we recommend that the Chairman of the Federal Communications Commission take the following three actions:

- To improve enforcement of the act and the related rules, develop and implement a strategy for overseeing cable operators' and satellite providers' compliance with the required advertising limits.

- To better ensure that core children's programming meets the educational and informational needs of children, collaborate with the media industry to explore the potential for voluntary guidelines or standards to be used in creating and assessing core children's programming.

- To better inform parents about core children's programming and how it is designated as such, coordinate with broadcasters, associations, parents, and other stakeholders to (1) identify additional mechanisms—such as the recently launched 'Parents' Place' Web site—for educating the public about core children's programming on commercial broadcast television stations and assisting parents in making well-informed decisions about their use of core children's programming; (2) implement these mechanisms; and (3) measure and assess the effectiveness of these mechanisms.

Agency Comments

We provided a draft of this report to FCC for review and comment. FCC provided its written comments on the draft by a letter dated July 5, 2011. These comments are included, in their entirety, as appendix II to this report. FCC generally concurred with our recommendations and discussed planned and ongoing actions to address them. In separate correspondence, FCC also provided technical comments, which we incorporated as appropriate.

We are sending copies of this report to the Federal Communications Commission and other interested parties. In addition, the report will be available at no charge on the GAO Web site at http://www.gao.gov.

If you or your staff have any questions about this report, please contact me at (202) 512-2834 or goldsteinm@gao.gov. Contact points for our Offices of Congressional Relations and Public Affairs may be found on the last page of this report. GAO staff who made key contributions to this report are listed in appendix III.

Sincerely yours,

Mark L. Goldstein
Director, Physical Infrastructure Issues

Appendix I: Objectives, Scope, and Methodology

We were asked to review how the Federal Communications Commission (FCC) provides information on children's programming to parents who may wish to use it to help plan their family television viewing. This report discusses (1) the trends in children's programming since the Children's Television Act of 1990 (CTA) was enacted, (2) FCC's efforts to enforce the act, and (3) the extent to which parents value and use core children's programming.

To obtain information about the trends in children's programming since CTA was enacted, we conducted a trend analysis of core children's programming in eight designated market areas (DMA) of different sizes to determine changes in the quantity and availability of core children's programming between 1998 and 2010. DMAs are ranked annually by the Nielsen Company according to the number of television households and are widely used by both FCC and the media industry to report information. We selected a non-probability sample of eight DMAs for our trend analysis with regard for variation in both size and geographic dispersion based on the Nielsen Company's 2010 size ranking of all 210 DMAs in the United States. For size, we divided the ranked markets into thirds representing approximately 33 percent of television households and selected two DMAs from the group with the largest markets and three DMAs from the remaining two groups, for a total of eight DMAs. The selected markets, along with their ranked size, are: New York, New York (1); Dallas-Fort Worth, Texas (5); Denver, Colorado (16); San Diego, California (28); Grand Rapids-Kalamazoo-Battle Creek, Michigan (41); Spokane, Washington (75); Charleston, South Carolina (97); and Butte-Bozeman, Montana (190).

Broadcast stations were not required to report their core children's programming consistently until 1997, when FCC established a reporting requirement and form for that purpose: the Children's Television Programming Report.[1] As such, we excluded the first year of available data (1997) based on concerns that stations may not yet have been reporting consistently. In each DMA, we developed a list of broadcast stations by identifying stations that reported airing core children's programming in the second quarter of 2010. We then obtained Children's Television Programming Reports submitted by each station from FCC's public database for a randomly selected quarter in each year from 1998 through 2010. We did not include programming aired by non-commercial broadcast

[1]The Children's Television Programming Report is submitted to FCC by broadcast stations on a quarterly basis and includes information on the programming that a commercial television station has aired to serve the educational and informational needs of children.

stations, such as PBS member stations, in our analysis of core children's programming because non-commercial broadcast stations are not required to report the same data and thus comparable data were not available. From each Children's Television Programming Report, we collected data on the reported average weekly hours of core children's programming as well as other information such as the program title, scheduled broadcast day and time, and target age group for each program.

To show availability of programming for children of different ages in each DMA, we divided the core children's programming week—that is, between 7:00 a.m. and 10:00 p.m. each day of the week—into 30-minute segments. We also selected three different ages—4, 8, and 13—to represent the range of ages under 16. Using the trend analysis data, for each 30-minute segment, we identified whether at least a single program with a targeted age range that included one of the three selected ages aired in the DMA. We calculated the percentage of time that at least one program was available for each age by dividing the total number of those segments by the 210 available segments for each week. For example, in Denver in 2010, in 114 segments of the week there was at least one program aired that was targeted for an 8-year old. By dividing the total number of segments with available programming (114) by the total number of segments in the week (210), we found that, during the quarters in 2010 we randomly selected, programming for an 8-year old was available 54 percent of the time in Denver. We repeated the analysis for each of the three selected ages, for each of the eight selected DMAs in both 1998 and 2010. While conducting this trend analysis, we found some inconsistencies in the data reported to FCC in the Children's Television Programming Reports, such as stations reporting that their core children's programming aired outside of the required time frame (7:00 a.m. to 10:00 p.m.) or reporting that a program aired more times than possible in a given quarter. The results of our trend analysis are not generalizable to all commercial broadcast stations operating in the United States because we reviewed data from only 8 of 210 DMAs. In addition to conducting a trend analysis, we interviewed personnel from commercial and non-commercial broadcast stations in five DMAs: Dallas-Fort Worth, Texas; San Diego, California; Grand Rapids-Kalamazoo-Battle Creek, Michigan; Spokane, Washington; and Charleston, South Carolina. We also interviewed various industry stakeholders, including representatives of industry associations, television networks specializing in children's programming, and providers of syndicated children's programming.

To obtain information about FCC's efforts to implement and enforce CTA, we reviewed relevant statutes and FCC rules related to commercial broadcast stations, cable operators, and satellite providers, as well as available FCC data on violations and civil penalties it issued. We also interviewed staff from several offices of FCC—including the Enforcement Bureau and the Media Bureau—as well as personnel from commercial and non-commercial broadcast stations in the five DMAs we visited.

To obtain information on the extent to which parents value and use core children's programming, we conducted 10 focus groups of parents in five of the eight DMAs noted above: Dallas-Fort Worth, Texas; Grand Rapids-Kalamazoo-Battle Creek, Michigan; Spokane, Washington; San Diego, California; and Charleston, South Carolina. We conducted two focus groups of parents in each DMA, with parents divided according to the age of their children. In three DMAs, we conducted focus groups of parents with children between the ages of either 2 through 9 or 10 through 16. After these focus groups were completed, we found that parents of children in the older group (ages 10 through 16) had consistent responses and stated that their children normally view programs meant for a general audience, rather than programs aimed specifically at children. To gain more varied information, the final four focus groups in the remaining two DMAs were conducted with parents with children aged either 2 through 5 or 6 through 9. We recorded the focus groups and completed written summaries of each, and then multiple GAO analysts coded the responses to identify trends across the focus groups and worked to ensure agreement about the coding. In addition, we obtained information by interviewing personnel from FCC, broadcast stations, child advocacy groups, providers of syndicated children's programming, industry associations, and officials at various networks that specialize in children's programming. To obtain information on the availability of FCC information on core children's programming and the act to parents through Internet search engines, we conducted analysis of search results using the three most popular Internet search engines in the United States using various search terms. To assess the reliability of the data FCC provided, we interviewed FCC officials and determined that the data were sufficiently reliable for the purposes of describing trends in children's programming and in FCC enforcement activities.

We conducted this performance audit from April 2010 to June 2011 in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

Appendix II: Comments from the Federal Communications Commission

Federal Communications Commission
Washington, D.C. 20554

July 5, 2011

Mark Goldstein
Director, Physical Infrastructure Issues
U.S. Government Accountability Office
441 G Street, NW
Washington, DC 20548

Dear Mr. Goldstein:

Thank you for the opportunity to respond to the draft Government Accountability Office (GAO) report addressing the Federal Communication Commission's (Commission) implementation of the provisions of the Children's Television Act of 1990. The Children's Television Act of 1990 was designed primarily to limit the exposure of children 12 years of age and younger to television commercials and to expand the amount and availability of informational and educational television programming targeted to children (core programming).

The GAO report recognizes that in the eight markets that it studied, during the period of time from 1998 to 2010, the amount of core children's programming "increased significantly…ranging from 73 percent in the smallest market (Butte-Bozeman, Montana), to 477 percent in the largest market (New York, New York)." In addition, the GAO report found that core children's programming was no longer concentrated on the weekends, but aired throughout the week. While the report correctly stated that the Commission primarily relies on the public, including parents and child advocacy groups, to monitor and react to core children's programming content, it recognized the Commission's enforcement action resulting in a 24 million dollar consent decree with a nationwide broadcast network that failed to broadcast core children's programming.

As to the implementation of the commercial time limits during children's programs directed to younger children, the GAO report correctly states that during the last two television renewal cycles, in 1996 and 2004, the Commission issued over 7,000 fines to more than 600 stations, totaling almost 3 million dollars, mostly for advertising length violations, but also including public file, host selling and program length commercial violations. The report also acknowledges the proactive Commission enforcement that resulted in $1.5 million in settlements with two well-known children's cable networks for possible violations of the commercial limits.

The report recommends that the Commission develop and implement a strategy for overseeing cable operators' and satellite providers' compliance with the required advertising limits. As the report already acknowledges, the Commission has now reinstated its audit program, designed to oversee cable operators' and satellite providers' compliance with advertising rules. The report also recognizes the ongoing enforcement efforts of the agency, which have found multiple violations of the requirement that cable operators maintain records of their children's programming in their public inspection file.

The report also recommends that the Commission explore the potential for voluntary guidelines and standards with the media industry to be used in creating and assessing core children's programming. We will forward these issues for consideration by the Commission's Consumer Advisory Committee (CAC), which was chartered under the Federal Advisory Committee Act. The FAC is composed of representatives from public interest groups and media-related organizations. The CAC is particularly well suited to recommend best practices to media programmers and buyers to be used in the development and production of core children's programming. CAC will also be able to provide helpful perspectives on efficient and effective ways to educate parents as to the identification and availability of core children's programming. Finally, the report recommends that the Commission enhance the educational outreach to the community, so that parents better understand the placement and availability of core programming. The Commission is now in the process of extensively revising its web site, to provide easier access to children's programming and related information, in a consumer friendly format. As part of this effort, the Commission will reassess the parent's page and its ability to attract and convey helpful information to parents.

Once again, we appreciate GAO's recommendations and we believe that we are already well on the way to implementing them. First, we have an audit plan already in place to monitor compliance of cable operators' and satellite providers' with the required advertising limits. Further, we have designated children's core programming and parent outreach as issues to be addressed by the Consumer Advisory Committee for best practices recommendations. Finally, we are revamping the Commission's website so that children's core programming information is more easily searchable and accessible. We look forward to working with you in the future.

Sincerely,

William T. Lake
Chief, Media Bureau

Appendix III: GAO Contact and Staff Acknowledgments

GAO Contact

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Staff Acknowledgments

In addition to the individual named above, Keith Cunningham, Assistant Director; Colin Fallon; Katherine Hamer; Bert Japikse; Kirsten Lauber; Hannah Laufe; Janet Mascia; Faye Morrison; Ramzi Nemo; Daniel Paepke; Terry Richardson; Jerome Sandau; Travis Thomson; Mindi Weisenbloom; Jade Winfree; and Elizabeth Wood made key contributions to this report.

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