



FOUNDATION TO IMPROVE TELEVISION

**PHOTOCOPY
PRESERVATION**



FOUNDATION TO IMPROVE TELEVISION

SIXTY STATE STREET SUITE 3400 BOSTON, MASSACHUSETTS 02109 TEL: 617 523-6353 FAX: 617 523-4619

FOR IMMEDIATE RELEASE
March 25, 1993

CONTACT: Susan Wysoki
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William Abbott
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TV INDUSTRY CHALLENGED TO CURB TELEVISION VIOLENCE

Washington, D.C., March 25, 1993 -- America's broadcasters and cable operators were pointedly challenged to curb excessive television violence with a groundbreaking petition filed today with the Federal Communications Commission (FCC). The Foundation to Improve Television, (FIT), a public interest, non-profit, educational organization dedicated to reducing violent television and its easy access to children, recommended seven specific rulemaking options to the FCC which, taken together, would curb televised violence during peak family viewing hours.

Citing several studies showing a definitive link between televised violence and real violence, Foundation President William Abbott noted, "The body of evidence over the past thirty years is indisputable. Televised violence is directly linked to violence and to aggressive attitudes in our society. The FCC, Congress and the courts all have the responsibility and the power to change that." Board member, and prominent violence researcher, Dr. Len Eron concurred, "The fact that we get this same relation between television violence and aggression in study after study, in one country after another, cannot be ignored."

In response to recent comments by the Chairman of the FCC regarding the Commission's inability to initiate action to deal with excessive TV violence, , Abbott added, "The FCC's duty is to regulate communications in the public interest, and it is clear that both experts and the American public believe excessive TV violence runs counter to the public interest."

The Foundation's recommendations followed a brief video presentation of intensely graphic violence from recent television programs which were all, with one exception, aired at 8 o'clock p.m. or earlier during last month's ratings sweeps on over-the-air channels in the Boston area. The Foundation is headquartered in Boston, Massachusetts with a national board of directors which includes some of the country's most prominent child development experts.

The Foundation's rulemaking options include:

- Asking the FCC to withhold the granting of, or renewal of, operating licenses for broadcasters who carry programs between the hours of 6:00 a.m. and 10:00 p.m. containing "excessive" amounts of violence.

--more--

MAKE TELEVISION FIT FOR CHILDREN



FOUNDATION TO IMPROVE TELEVISION

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Foundation to Improve Television

March 25, 1993

2-2-2-2

- Asking the FCC to impose the following requirements on telecasters with respect to programming shown between the hours of 6:00 a.m. and 10:00 p.m.:
 - Requirement of appropriate audio and visual advisories for programs containing excessive violence;
 - Requirement of visual warning signals superimposed for the duration of any program containing excessive violence;
 - Requirement that telecasters not air promotional spots which contain excessive violence;
 - Asking the FCC to provide programming designed to educate and inform children regarding the implications and effects of violence, violent behavior, and the harmful impact of television violence;
 - Asking the FCC to convene hearings, solicit public comments, and develop appropriate guidelines regarding the telecast of excessively violent programming between the hours of 6:00 a.m. and 10:00 p.m.

The Foundation also announced an initiative that in each major television market a petition to deny license renewal would be filed with respect to the station in that market responsible for the most violent programming during children's viewing hours.

The Foundation's action follows on the heels of a major nationwide survey, conducted by Times Mirror poll released Tuesday, showing more Americans are disturbed by televised violence now than in the past. 80 percent of those surveyed said entertainment violence is "harmful" to nation, compared to 64 percent in 1983 and an overwhelming majority of 72 percent of those surveyed -- said entertainment television has too much violence.

Abbott also stated the Big 3 networks' recent 15-point checklist to curb violence, while a start, was not enough. "The fact that networks are finally taking steps to address the problem, is a good beginning, but it is just a beginning. Such voluntary guidelines are meaningless unless they are backed by action and are enforceable," Abbot said. He concluded that "The television industry has, for almost twenty years, proclaimed its intentions to reduce violence in programming, but has instead steadily increased our television diet of dramatized murder and mayhem."

The Foundation to Improve Television, founded in 1969, has the support of legislators, educators, psychologists and concerned citizens. For over twenty years, the independent Foundation has worked through the legislative and legal process to curb the escalating tide of television violence, particularly aimed at children.

#

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THE FOUNDATION TO IMPROVE TELEVISION

Background and Mission

The Foundation to Improve Television (FIT) is a non-profit, public interest, educational organization based in Boston, Massachusetts. Founded in 1969, the Foundation to Improve Television has been dedicated to responsible change and improvements in the quality of television viewing, with a particular focus on reducing televised violence aimed at children.

Working through the legal process, the Foundation has continued to challenge regulators to implement enforceable standards to inform viewers of excessively violent programming and keep such programming from being broadcast during peak family viewing hours.

Numerous studies have supported the Foundation's goals. From 1967 to 1989, the moderate viewer of prime time television — research shows — has seen an average of 150 acts of violence and approximately 15 murders every week, not counting either cartoons or the news.

As we have learned, first, the violent world of fictional television tends to "cultivate" a sense of danger, mistrust, dependence, alienation and gloom in many viewers. Additionally, when fed a steady diet of television violence, many children learn that violence is a legitimate way of pursuing their goals and "winning" an argument. At the same time as children become desensitized to violence, they become much less able to commiserate with the victims of real violence.

The Foundation has undertaken a three-pronged approach to achieving its mission. First, the Foundation will be raising public awareness to the threat violent television poses to our children. Second, the Foundation will be working with business leaders to enlist their support to limit the advertising that keeps fictional violence on the air. Third, the Foundation will seek regulatory and legislative remedies before the FCC and the courts to help restrict the broadcast of excessively violent programming to adult viewing hours.

Backed by educators, scientists, legislators and concerned citizens, the Foundation is headed by President William Abbott. The Chairman of the Foundation is Gerald W. Blakeley Jr. of Blakeley Investment Company and the Executive Director is David H. Abbott. The Foundation's Board of Directors includes Drs. Jerome Kagan and Ronald G. Slaby of Harvard University, Dr. Robert R. Pauley of the University of South Carolina at Spartanburg, Dr. Leonard D. Eron, of the University of Michigan at Ann Arbor, Robert D. Ballard, Director of the Center for Marine Exploration at Woods Hole Oceanographic Institute, Stephen P. Strickland, President of the National Peace Foundation and Reverend Margaret M. Graham, Associate Rector of St. Margaret's Episcopal Church and President of National Committee on Child Abuse.

MAKE TELEVISION FIT FOR CHILDREN



Who's Who at The Foundation To Improve Television

Chairman

Gerald W. Blakeley, Jr.
Blakeley Investment Company

President

William S. Abbott, Esq.
Simonds, Winslow, Willis, Abbott

Executive Director

David H. Abbott

DIRECTORS

Gerald W. Blakeley, Jr.

William S. Abbott, Esq.

Jerome Kagan

Professor of Psychology
Harvard University

Robert R. Pauley

Professor of Business Administration
University of S. Carolina at Spartanburg
Former President, ABC Radio Network

Leonard D. Eron

Research Scientist and Professor
Institute for Social Research
Department of Psychology
University of Michigan at Ann Arbor

Robert D. Ballard

Director, Center for Marine Exploration
at Woods Hole Oceanographic Institute
Founder and Chairman, Jason Foundation
Former Host, National Geographic's "Explorer"

Stephen P. Strickland

President, National Peace Foundation
Co-author, "TV Violence and the Child"

Ronald G. Slaby

Senior Scientist
Education Development Center, Inc.
Lecturer, Harvard University



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Chronology of Events Relating to Television and Violence

- 1954 Kefauver Hearings are first hearings that discuss potential impact of TV violence.
- 1954 Violence accounts for 17% of prime-time programs.
- 1961 Violence accounts for 60% of prime-time programs.
- 1968 Johnson appoints National Commission on the Causes and Prevention of Violence to look into link between TV and violence.
- 1969 FIT files Petition for Rule Making with FCC proposing to curtail the broadcast of excessively violent programming during 6:00 a.m. and 9:00 p.m.
- 1970 FIT files suit in DC Federal Court to enjoin broadcast of a particularly violent daytime show.
- 1972 Surgeon General publishes flawed report finding qualified link between TV and violence. Report does, however, conclude that there is a "convergence...of evidence [showing] a preliminary indication of a causal relationship between television violence and later aggressive behavior of children."
- 1973 Miller v. California: Supreme Court defines concept of obscenity.
- 1974 Erznoznik v. Jacksonville: Supreme Court holds that government has right to adopt more stringent controls on communicative materials available to youths than on those primarily available to adults.
- 1975 FCC Report on the Broadcast of Violent, Indecent and Obscene Material advocates, and expects, industry self-regulation.
- 1975 Family Viewing Hour begins, as networks bow to informal pressure exerted by FCC.
- 1975 FCC ruling on the complaint of the Polite Society, Inc. reaffirms policy of self-regulation with regard to the broadcast of "excessive mayhem".
- 1976 Writers Guild, West v. FCC sees Court put an end to Family Viewing Hour due to "improper pressure" exerted by FCC.



- 1977 Congressional effort on TV violence led by Van Deerlin dies after running into industry opposition.
- 1978 FCC v. Pacifica sees Supreme Court allow sanctions for indecency. Ruling allows "time-zoning" of speech, upholds sanctity of the home. Develops "nuisance rationale".
- 1978 PTA efforts reach on TV violence reach their zenith, decrease hereafter.
- 1980 Deregulation prompts industry to dismantle codes relating to violence on children's TV.
- 1981 Wirth attempts to hold productive hearings on TV violence, but they die.
- 1982 10-year follow-up to Surgeon General's Report by NIMH finds an even stronger link between TV violence and societal violence. TV industry gets very defensive. 66% of U.S. public says they would support the 9:00 p.m. rule.
- 1984 Attorney General's Task Force on Family Violence notes role of TV violence in contributing to violent behavior in the home.
- 1984 Cable Act regulates cable and prohibits obscenity on cable.
- 1988 Cable Act amendment recodifies obscenity ban on cable.
- 1990 Children's Television Improvement Act limits commercials on children's programs, and requires broadcasters to serve educational and informational needs of children.
- 1990 Television Program Improvement Act grants industry 3-year anti-trust exemption to come together to formulate joint standards on the broadcast of violent programs.
- 1992 ABC, NBC and CBS publish joint standards on broadcast of violent of violent programs as suggested under TV Improvement Act of 1990.
- 1993 National cable TV Association advises all cable companies to develop standards regarding violence (in light of TV Improvement Act).
- 1993 FIT files Petition for Rule Making with FCC proposing to withhold the granting of , or renewal of, operating licenses for broadcasters who carry programs between the hours of 6:00 a.m. and 10:00 p.m. containing "excessive" amounts of violence.



Fact Sheet on Television Violence

Television Viewing Patterns:

- Average 2-5 year old watches 3.9 hours of television per day, 27 hours per week.
- In U.S. city cores, a family's weekly viewing is approximately 77 hours. That's 11 hours per day.
- Average child watches more than 22,000 hours of television before age 18. This is roughly twice the number that they spend in school.
- Today's child will spend roughly 9 years watching television during their lifetime.

Level of Violence on TV:

- From 1967-89, an annual average of 7 out of 10 prime time programs had violent components.
- There were 5-6 acts of violence per hour on prime time programs from 1967-89.
- Approximately one-half of all prime time dramatic characters are involved in violence, and about 10% are involved in killings.
- From 1967-89, children witnessed about 16 violent acts, including 2 murders, in each evening's prime time fictional programming.
- The moderate viewer of prime time sees an average of 150 acts of violence and approximately 15 murders per week.
- Since 1986, cartoons have entertained children with approximately 25 violent acts per hour, committed by more than 7 out of 10 characters, and in 9 out of 10 programs.
- Since the dismantling of codes relating to children's programming in 1980, the rate of violence on weekend daytime children's programs has gone from 18.6 to 26.4 per hour.



- The average American 18 year old has witnessed approximately 200,000 acts of televised violence.

Positions Adopted by Influential Organizations:

- American Medical Association passed 1976 resolution that says "TV violence threatens the health and welfare of young Americans..."
- American Academy of Pediatrics recommends for pediatricians to advise parents to avoid violent programming for their children.
- American Psychological Association concluded in 1992 that "viewing televised violence may lead to increases in aggressive attitudes, values, and behavior, particularly in children".
- American Psychiatric Association has written "The evidence is overwhelming that violence in television programming can have a negative and severe behavioral impact on young people and adults."
- National Institute of Mental Health concluded in 1982 that "there is a clear consensus among most researchers that television violence leads to violent behavior."
- Attorney General's Task Force on Family Violence concluded in 1984 that "the evidence is becoming overwhelming that...violence on television...may contribute to normal adults and children learning and acting out violent behavior."

(Material taken from Gerbner's "Violence Profile 1967-1988/89: Enduring Patterns", Centerwall's "Television and Violence" in JAMA 6/10/92, Nielsen Report on TV: 1990, and various other studies.)

Elmer Gertz
Attorney at Law
6249 N. Albany Ave.
Chicago, Ill. 60659
312-274-2247

March 9, 1993

Mr. William S. Abbott
50 Congress St.
Boston, Mass.
02109

Dear Mr. Abbott,

Confirming what I said on the telephone when I had the pleasure of speaking with you, I heartily approve of your petition to persuade the FCC to regulate dramatized violence on television. I believe that such regulation can be promulgated, in the circumstances indicated, without violating the First Amendment. Our society is being torn asunder by the criminal activity, violence and lack of discipline that permeates it. We are entitled to protect ourselves.

I would, however, add to your statement that television violence, serious as it is, does not stand alone as a cause. I would mention it in conjunction with guns, drugs, alcohol and general lack of discipline.

If you must know something about me, I am sending a resume of my career.

Sincerely,


Elmer Gertz

Elmer Gertz
Attorney at Law
6249 N. Albany Ave.
Chicago, Ill. 60659
312-274-2247

Elmer Gertz is a lawyer, educator, and writer, who has long been active in the communal life of Chicago.

As a lawyer he has participated in some of the celebrated cases of the day: the freeing of Nathan Leopold; the setting aside of the death sentence of Jack Ruby, and many other capital cases (Crump, Moore, Witherspoon, Hill); many censorship cases including those involving Tropic of Cancer; cases involving basic aspects of the Illinois constitution; and a landmark libel case (Gertz v. Robert Welch, Inc.) that has caused the Supreme Court to modify the law in that basic area.

An award to him from the Illinois Division of the American Civil Liberties Union reads: "Counsel for the defense, for exemplary service in the causes of literary freedom and equal justice under the law."

He has, also, received awards for his communal and other activities from many other groups, including the University of Chicago Alumni Association, Herbert H. Hyman Award of the Jewish United Fund, Chicago Council Against Racial and Religious Discrimination (twice), Chicago Sun, Delta Award of Southern Illinois University, Decalogue Society of Lawyers, Senior Citizens Hall of Fame of the City of Chicago, American Jewish Congress (three times), Society of Midland Authors, Civil War Round Table, the first Bud Bergman Humanitarian Award, Adult Education Council, Hadassah, City of Hope, Friends of Literature, Phi Alpha Delta Law Fraternity International, Hugo's Companions, Chicago Bar Association, Ethical Humanist Society Humanist of the Year, Clarence Darrow Foundation. He has received the Prime Minister's Medal from the State of Israel. The Friends of Midland Authors gave him its first award for the body of his work.

He is an adjunct professor at the John Marshall Law School, conducting seminars on privacy and on civil rights.

Michael B. Rothenberg, M.D.
7595 Swede Hill Road
Clinton, Washington 98236

(206) 221-2774

March 15, 1993

TO: Federal Communications Commission

RE: Petition for Rule Making - Foundation to Improve
Television

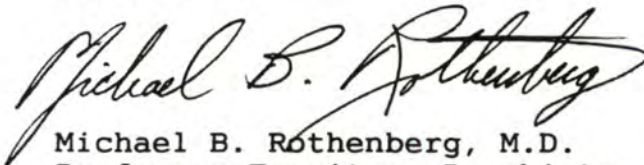
I give my full support to the Foundation to Improve Television's Petition for Rule Making. I urge the F.C.C. to move quickly and positively in response to this Petition.

I have been reviewing the research conducted on the effects of television violence on children and youth since 1974. This research has definitively proven that violence viewing has short- and long-term serious, deleterious effects on child and adolescent viewers.

The commercial television industry, contrary to its announced intentions as far back as 1975, has not curtailed violence in its programs; and has, in fact, increased the amount and variety of violence in its programming.

Please feel free to call on me for any further information that may be helpful to you.

Sincerely,

A handwritten signature in cursive script, reading "Michael B. Rothenberg". The signature is fluid and stylized, with the first and last names being more prominent.

Michael B. Rothenberg, M.D.
Professor Emeritus, Psychiatry and Pediatrics
University of Washington School of Medicine
Coauthor, Dr. Spock's Baby and Child Care

HARVARD UNIVERSITY

Statement for Foundation to Improve Television Petition to the Federal Communication Commission

Television is a persistent and effective teacher -- whether the lessons are taught by design or default. Television can continue to teach our children the same misleading, unrealistic, and deadly lessons that have for decades fostered violence in America, as research evidence clearly confirms. Or it can generate a new lesson plan that serves the educational and informational needs of our children by teaching a broad variety of accurate, effective, and life-saving alternative solutions to the problems of violence. Which television teacher will we, the American people, choose to operate the airwaves that we own? The time to decide is upon us.

Ronald G. Slaby, Ph.D.

Harvard University &
Education Development Center

(617) 969-7100, ext. 315

March 19, 1993

David H. Abbott
Executive Director
Foundation to Improve Television
Boston, Mass.
Fax: 617 523 4619

Dear Mr. Abbott:

I applaud your initiative petitioning the FCC to alert parents and children to gratuitous violence in dramatic programs. Such violence is typically driven by formulas imposed on writers and directors for purposes of global marketing. Reducing it is a step toward both enriching the airways and freeing creative people from such imposition.

Sincerely yours,



George Gerbner
Professor of Communication and Dean Emeritus

HARVARD UNIVERSITY
DEPARTMENT OF PSYCHOLOGY

JEROME KAGAN
Daniel and Amy Starch
Professor of Psychology

WILLIAM JAMES HALL
33 KIRKLAND STREET
CAMBRIDGE, MASSACHUSETTS 02138

March 9, 1993

Mr. David H. Abbott
Foundation To Improve Television
60 State Street
Suite 3400
Boston, MA 02109

Dear David:

It was good seeing you last week. This letter contains some text you are free to use at the press conference later in March.

Scientific research suggests that continued exposure to violence on television has different psychological consequences on varied groups of viewers. For some, violent behavior by agents can be a psychological excitant as well as an illustration of potential aggressive behavior. For others, continued exposure to victims of violence can mute the natural feelings of shock, disgust, empathy, or fear to these events. As a result, feelings of sympathy toward actual or potential victims can be suppressed and not pierce consciousness. Finally, for a third group of individuals who identify with the victim, rather than the aggressor, an excessive fear of harm can be promoted, leading to a limitation of freedom of action to which each person is entitled. Thus, even though television violence does not affect all viewers in the same way, it can have psychologically undesirable effects on a considerable proportion of the population.

Cordially,



Jerome Kagan

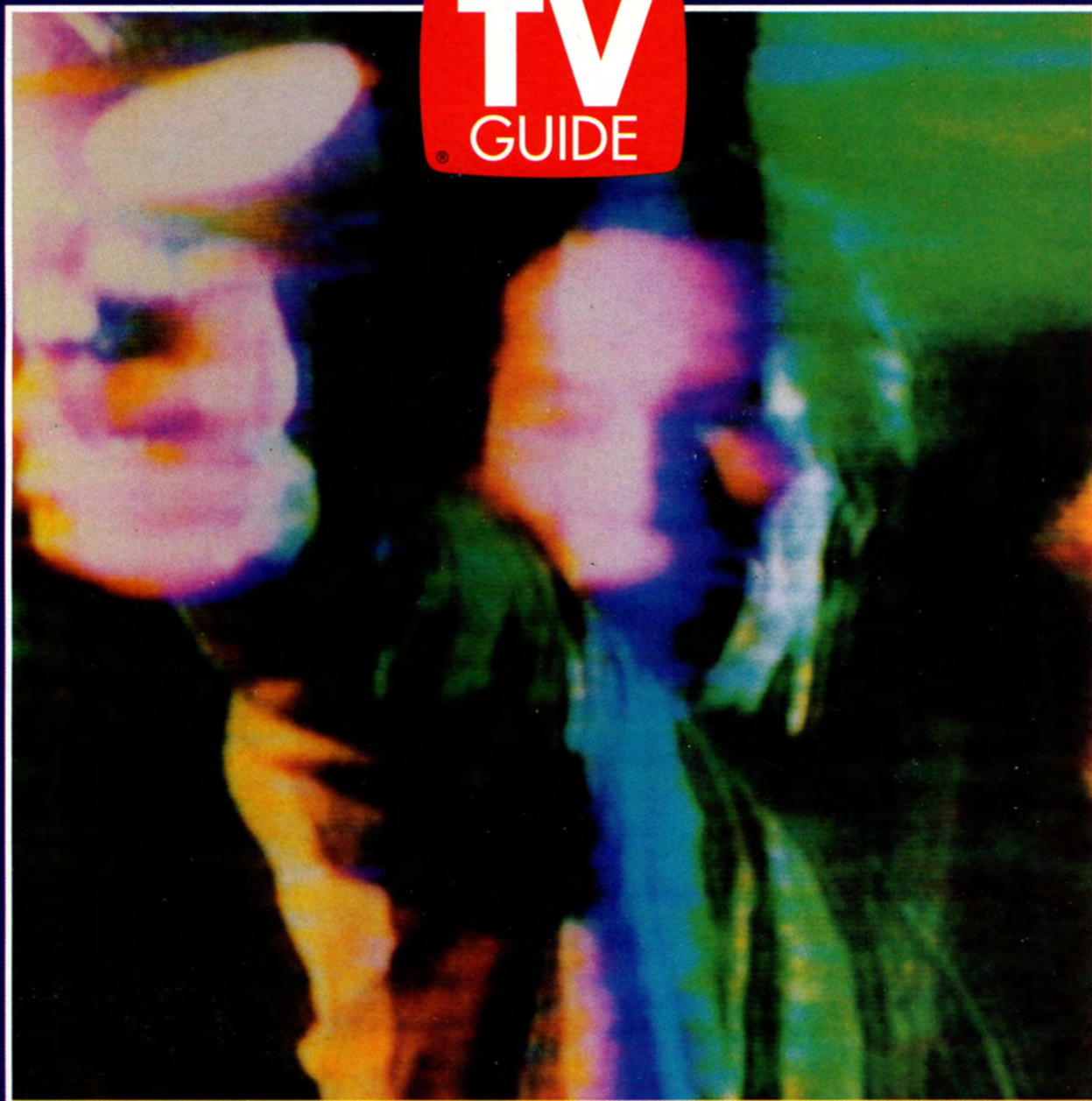
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VIOLENCE ON TELEVISION

A Symposium and Study Sponsored by the Editors of TV Guide

TV GUIDE January 23-29

NO FOOTBALL? NO PROBLEM!

A DAY PACKED FULL OF PERSONAL FOULS,
UNNECESSARY ROUGHNESS
...AND SUDDEN DEATH!

10:35AM DELTA FORCE

1:20PM DIRTY HARRY

3:20PM CAHILL: U.S. MARSHALL

5:35PM MESSENGER OF DEATH

7:35PM BLOODSPORT

9:35PM THE OCTAGON

TBS
SUPERSTATION

January 24, 1993



FOUNDATION TO IMPROVE TELEVISION

SIXTY STATE STREET SUITE 3400 BOSTON, MASSACHUSETTS 02109 TEL: 617 523-6353 FAX: 617 523-4619

April 12, 1993

Chairman
Gerald W. Blakeley, Jr.
Blakeley Investment Company

President
William S. Abbott, Esq.
Simonds, Winslow, Willis, Abbott

Executive Director
David H. Abbott

Mrs. Hillary Rodham Clinton
c/o Ms. Melanne Verveer
Office of the First Lady
Room 100
Old Executive Office Building
Washington, DC 20500

Dear Mrs. Clinton:

DIRECTORS

Gerald W. Blakeley, Jr.

William S. Abbott, Esq.

Jerome Kagan
Professor of
Psychology
Harvard University

Robert R. Pauley
Professor of
Business Administration
University of S. Carolina
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Former President, ABC Radio Network

Leonard D. Eron
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Robert D. Ballard
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Founder and Chairman, Jason Foundation
Former Host, National Geographic's *Explorer*

Stephen P. Strickland
President, National Peace Foundation
Co-author, *TV Violence and the Child*

Ronald G. Slaby
Senior Scientist
Education Development Center, Inc.
Lecturer, Harvard University

As President of the Foundation to Improve Television, I would like to call your attention to the Foundation's work as it relates to the issue of national health care. The Foundation is a national, non-profit organization working to reduce the amount of violence shown on television during children's viewing hours and to alleviate the harmful effects televised violence has on children's mental health.

The Foundation's approach is threefold. First, the Foundation is raising public awareness of the threat posed to our nation's children by violent television programming. Second, the Foundation is enlisting the support of business leaders to discourage the advertising that keeps fictional violence on television. Third, the Foundation is pursuing regulatory and legislative remedies before the FCC and the courts.

The Board of Directors of the Foundation to Improve Television includes three Professors of Psychology: Dr. Jerome Kagan and Dr. Ronald G. Slaby, both from Harvard University, and Dr. Leonard D. Eron of the University of Michigan. The Board also includes Stephen Strickland, President of the National Peace Foundation, and the Reverend Margaret Graham, President of the National Committee for the Prevention of Child Abuse.

I and the Foundation's directors admire and respect your involvement in improving the lives of our nation's children and your demonstrated commitment to improving health care in this country. Because the Foundation is also focused on promoting the well-being of our nation's children, we are hopeful that you will include

MAKE TELEVISION FIT FOR CHILDREN

Mrs. Hillary Rodham Clinton
April 12, 1993
Page 2

television violence on your public health agenda. Your comments in the Easter edition of Parade Magazine on how children are affected by violence on television were certainly encouraging.

The Foundation's efforts to reduce the amount of violence on television through regulatory and legal means have a more than twenty-year history. In 1969 the Foundation filed a Petition for Rule Making on television violence with the FCC. The next year we initiated a lawsuit against a television station that was broadcasting a particularly large amount of violent programming during children's viewing hours. We argued that children have a Fifth Amendment right to be free from mental harm that outweighed the First Amendment rights of the television station.

Unfortunately, the U.S. Court of Appeals held that the lawsuit was premature and that we had to await action on the matter by the FCC. However, the court did state that it stood ready to vindicate the rights of the parties if the FCC failed to act. Now, after twenty years of inaction on the part of the FCC, and after twenty years of ineffective self-regulation on the part of the television industry, the Foundation is renewing its efforts to combat the problem of televised violence through the FCC and the courts.

On March 25, 1993, the Foundation filed a new and updated Petition for Rule Making on television violence with the FCC. This Petition proposes rules designed to reduce the amount of televised violence shown during children's viewing hours and to help parents intelligently monitor their children's television viewing. The proposed rules were carefully drafted to restrict telecasters' First Amendment rights only to the extent necessary to protect children from televised violence. It is our considered view, given the development of First Amendment jurisprudence in cases such as Young v. American Mini Theatres, FCC v. Pacifica Foundation, Renton v. Playtime Theatres, and Ward v. Rock Against Racism, that the limited restrictions embodied in our proposed rules are constitutionally permissible.

We also plan to file with the FCC petitions to deny license renewals to the television stations showing the most violent programming during children's viewing hours in each major market. As I am sure you are aware, the

Mrs. Hillary Rodham Clinton
April 12, 1993
Page 3

consensus is overwhelming in the scientific community that televised violence is harmful to children. The incidental effects of televised violence on children's mental health, such as increased aggressiveness and desensitization to violence, also have profound implications for public safety, domestic violence, and other health-related issues. The Foundation believes that the government has an important and long-neglected role to play in protecting children and society from the serious public health problem posed by television violence.

Enclosed are materials detailing the Foundation's activities from 1969 to the present. I hope you will find this information interesting. As you complete your report on health and health care in the United States, I encourage you to include, or at least consider, recommendations on alleviating the problem of televised violence. If you are interested in receiving additional information on televised violence or on the Foundation's activities, I would enjoy hearing from you or one of your assistants.

Sincerely,

William S. Abbott/BR

William S. Abbott

WSA/vmd
encls.

cc: Ms. Brooke Shearer w/o encls.

When it comes to family values...

'I Worry About Television'

How accountable is the entertainment industry—film, television and records—for the debasement of American social values?

"There has been a reinforcement by popular culture of the undermining of social values and institutions. I, personally, worry more about television than other forms of media, because it's so pervasive, and it's a primary baby-sitter and value-transmitter for many children.

"The lowest-common-denominator quality of much

of what appears on television and in other forms of popular culture—the constant barrage of violence and explicit sexuality—reinforces the loosening of human bonds, undermining the evolution of a mature person. For many people, it is affecting not just what they think about but also *how* they think, because it reinforces a kind of episodic, reactive, almost frantic mode of behavior. I think, on both the actual substance of entertainment and the process by which it's delivered,

there are grounds to worry about its impact—particularly on children."

In homes with cable TV, very young children can turn on channels showing R-rated and even X-rated films containing extremely graphic sex and violence—films that it is illegal for them to pay to see in a theater. How can you defend the culture of a country that allows a child access to hard-core pornography and extreme violence?

"I *can't* defend it! I wouldn't defend it! It's wrong, and I wish it would go away, because I think it's so destructive to children and adults to have that kind of material shown. I don't think there's anything wrong with parents' groups or other groups calling for people to boycott certain kinds of entertainment. That's advocacy, education and choice."

Would you support a federal investigation or Congressional committee hearings leading to some sort of control over what children have access to?

"Absolutely. I would absolutely support that. The kind of constant barrage of explicit sexuality and violence that fills our airwaves and impacts dramatically on the minds and souls of our children is one of many things that should concern us as a society. The undermining of our values needs to be addressed on a wide range of fronts. There's a lot at stake. When economic times are hard and people don't feel there's any choice, their values begin to be undermined—or they permit them to be. Child-abuse goes up and lots of other bad things happen because of impoverishment, especially for people who have given up hope.

"If you have generations of leaders lying to people,

the truth becomes debased, and a lot of values fall by the wayside as well. When you combine the disintegration of the family and the lack of positive adult-child relationships with a culture that appears to encourage violence and blatant sexuality, you have a dangerous combination. There are other countries in which pornography is readily available on the streets, but the family structure is such that it doesn't have the kind of terrible impact on children that we see.

"As adults, we have created a very fertile ground for that impact by not doing what needs to be done to create strong bonds with children, to give them the attention and discipline that will permit them to be exposed to whatever life throws their way and not be devastated. Or rendered so conscienceless that they can engage in violent behavior without any remorse. Why? Because they don't relate to anyone, because no one has adequately related to them."

"I don't think there is anything wrong with groups calling for boycotts of certain kinds of entertainment. It's advocacy, education and choice."

BEFORE THE
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of

The Foundation to Improve Television's
Proposal to Amend the Commission's
Rules to Regulate Television Programming
Containing an Excessive Amount
of Dramatized Violence and to Alleviate
the Harmful Effects of Such Programming
(\$ 73.____)

To: The Secretary
Federal Communications Commission
Washington, D.C. 20554

PETITION FOR RULE MAKING

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SUMMARY

The Petitioner proposes that the Commission issue one or more rules concerning dramatized violence in television programming. The proposed Rules, taken together, would require broadcasters, cable operators, and other telecasters (1) not to telecast programming containing an excessive amount of dramatized violence between 6:00 a.m. and 10:00 p.m.; (2) to provide explicit viewer advisories for programming containing an excessive amount of dramatized violence telecast between 6:00 a.m. and 10:00 p.m.; (3) to superimpose visual warning signals on programming containing amounts of dramatized violence inappropriate for children telecast between the hours of 6:00 a.m. and 10:00 p.m.; (4) not to transmit promotions or advertisements for programming telecast between 6:00 a.m. and 10:00 p.m., which promotions or advertisements contain an excessive amount of violence; (5) to develop a standard scheme for classifying television programming on the basis of the amount of dramatized violence it contains; (6) to educate and inform children about the harmful effects of violence, and to educate and inform viewers about the harmful effects of exposure to television violence, and; (7) to follow general guidelines, to be developed by the Commission in consultation with the television industry, when telecasting programming containing dramatized violence between 6:00 a.m. and 10:00 p.m..

Findings over the last twenty years by three different

Surgeons General, the Attorney General's Task Force on Family Violence, the American Medical Association, the National Institute of Mental Health, the American Psychiatric Association, the American Psychological Association, the American Academy of Pediatrics, and other authorities indicate that viewing televised violence is harmful to children. The amount of televised violence children in the United States watch also has serious implications for the alarmingly high rates of homicide, suicide, and violent crime in our society. The problem has only been exacerbated by the Commission's steadfast refusal to act on the problem in spite of its duty to regulate television programming in the public interest.

Americans watch enormous amounts of television, and many children will watch television for twice as many hours as they will attend school. Many children watch violent television programs without adult supervision or guidance. Recent studies indicate that violence on television is pervasive and becoming even more so, partially due to the proliferation of cable services. These studies also indicate that television viewers have little ability to avoid violent programming.

Laboratory experiments, as well as field studies and naturalistic studies, provide ample support for the conclusion that viewing television violence plays a causal role in the development of aggression. Watching aggressive behavior causes children to become more aggressive, and this

effect has been isolated from other factors. In one study, scientists found that childhood television viewing patterns are a better predictor of later adult aggression and criminal behavior than social class, parental behavior, child rearing practices, intelligence, and many other variables. Many studies of entire societies, conducted on small and large scales, show that violence and homicide rates increase dramatically after the introduction of television into a community. More than twenty years of research results such as these have led to a consensus that watching televised violence increases children's aggressiveness and desensitizes them to the effects and implications of violence. The solidity of the agreement among respected scientists that televised violence is harmful nullifies arguments to the contrary by the television industry.

Television violence is a matter of serious concern in the international community. Many countries, including Canada, Great Britain, South Africa, Belgium, Finland, Australia, New Zealand, and France, have taken action to combat the problem of television violence. The French government recently fined two television companies more than 10 million francs for broadcasting excessively violent programs during children's viewing hours. Australia's Broadcasting Tribunal recently recommended that broadcasters comply with a code of conduct to be drawn up by the industry with extensive input from the Tribunal and public interest

groups, and that compliance with this code be evaluated when broadcasters attempt to renew their licenses. New Zealand's Broadcasting Standards Authority has developed detailed regulations on the broadcast of violent images on television. The British Broadcasting Corporation has also developed guidelines relating to the depiction of violence on television. The Rules proposed herein have their counterparts in many of the advanced democracies of the world, including France, Australia, Belgium, New Zealand, and Britain.

Given the current consensus in the scientific community regarding the dangers of televised violence, the Commission should issue the proposed Rules pursuant to its duty to regulate television programming in the public interest. The proposed Rules would not violate either Section 326 of the Communications Act of 1934 or the First Amendment to the Constitution. The reasons the Commission declined to regulate televised violence in the 1970's, that more studies were needed to determine the effect of televised violence and that the television industry should be given the opportunity to reduce televised violence on its own, are no longer valid. Since the Commission initially declined to regulate televised violence, the evidence has become overwhelming that violent television programming is a serious social problem, and particularly harmful to children. Additionally, the First Amendment right to be free from intrusive speech in one's own home and the Fifth

Amendment liberty interest in being free from mental harm outweigh any First Amendment interest broadcasters or cable operators might have in exposing children to television violence. Furthermore, the Commission is not barred from applying the proposed Rules to cable-operators by 47 U.S.C. § 544b(f) because the Rules are content-neutral for First Amendment purposes. The Commission's authority to further the public interest has been construed very broadly, and it includes the power to regulate cable television. The continuing failure of the television industry to voluntarily reduce the amount of violence on television, even after receiving an antitrust exemption allowing it to do so, indicates that regulatory action is required.

The Commission's initial position on regulating televised violence, that doing so would be undesirable because such regulation raised serious First Amendment concerns, may have been warranted in the early 1970's. Any governmental limitation on communication raises the question of First Amendment issues. However, a careful examination of the development of First Amendment jurisprudence since the 1970's suggests that the Foundation's proposed Rules are now within the bounds of delineated First Amendment case law. The television industry has had over twenty years to voluntarily reduce the amount of violence on television to safe levels but has shown little inclination to do so. The Petitioner asks that the Commission acknowledge the now extensive empirical evidence that televised violence is a

serious social problem and amend its Rules and Regulations to include the Petitioner's proposed new Section 73.____ or issue one or more rules similar to those contained therein.

BEFORE THE
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of

The Foundation to Improve Television's
Proposal to Amend the Commission's
Rules to Regulate Television Programming
Containing an Excessive Amount
of Dramatized Violence and to Alleviate
the Harmful Effects of Such Programming
 (§ 73.____)

To: The Secretary
Federal Communications Commission
Washington, D.C. 20554

PETITION FOR RULE MAKING

COMES NOW the Petitioner, the Foundation To Improve Television, by and through its attorney, and respectfully requests that the Commission amend its Rules and Regulations to include the following new Section 73.____ or issue one or more rules similar to those contained therein. As an organization of viewers and parents, the Petitioner has a compelling interest in the reduction of dramatized violence telecast during children's viewing hours and in the implementation of regulatory measures designed to alleviate the harmful impact that excessive television violence has on children.

§ 73.____ Violent television programming.

1(a). Authorization, including but not limited to, a construction permit, license, license renewal, franchise, etc., for the operation of a broadcast television station, cable franchise or other facility or arrangement for providing television programming to the public from the Federal Communication Commission or from any other Federal, state or local authority shall be denied or withdrawn from any licensee, broadcaster or other programming provider upon a finding by the appropriate authority that such party has followed, is following, or proposes to follow, a policy or practice of broadcasting or transmitting television programming containing an excessive amount of dramatized violence between the hours of 6:00 a.m. and 10:00 p.m.

(b). For purposes of this section, television programming contains an excessive amount of dramatized violence if it contains dramatized portrayals of killings, rapes, maimings, beatings, stranglings, stabbings, shootings, or any other acts of violence which, when viewed by the average person, would be considered excessive or inappropriate for minors.

(c). For purposes of this section, "violence" means the use or threatened use of physical force against another or against one's self, whether or not such act or threat occurs in a realistic and serious context or in a fantastic and humorous context. Idle threats, verbal abuse, and gestures without credible violent consequences are not "violence" for purposes of this section.

(d). For purposes of this section, "an excessive amount of dramatized violence" means an amount of dramatized violence inappropriate for minors or exceeding that permitted by the guidelines developed by the Commission pursuant to paragraph 7 of this section.

2. Telecasters shall provide appropriate advisories, both audio and visual, to warn viewers of any programming containing an excessive amount of dramatized violence telecast between the hours of 6:00 a.m. and 10:00 p.m. Such advisories shall explicitly refer to the violent content of the particular programming. Such advisories shall be shown at the beginning of any such programming, as well as at the conclusion of all commercial breaks

during any such programming.

3. Telecasters shall superimpose an appropriate visual warning signal over any programming containing an excessive amount of dramatized violence telecast between the hours of 6:00 a.m. and 10:00 p.m., which signal shall remain visible for the duration of the programming.

4. Telecasters shall not telecast commercial advertisements or promotions for upcoming programming between the hours of 6:00 a.m. and 10:00 p.m., which advertisements or promotions contain an excessive amount of violence.

5. Telecasters shall promulgate a set of common standards for classifying programming on the basis of violent content which shall be made public and available to all interested parties, published in generally available program guides, and displayed on-screen immediately prior to the transmittal of the programming to which it pertains. All telecasters shall classify their programming according to the programming classification standards required by this paragraph. The standards shall be developed in consultation with the Commission and interested media-oriented public interest groups.

6. Telecasters shall develop programming designed to educate and inform children about the implications and effects of violence, violent behavior, and the effects of exposure to television violence. Telecasters shall also conduct or sponsor activities designed to enhance the value of such programming.

7. The Commission will convene hearings and solicit public comment on the issue of televised violence, after which the Commission will promulgate guidelines on programming containing dramatized violence telecast between the hours of 6:00 a.m. and 10:00 p.m., which guidelines shall provide telecasters with a clear understanding of their responsibilities.

The Petitioner suggests that any guidelines promulgated pursuant to Rule 7 should contain language similar to the following:

While violence may have legitimate uses in television programming, it should not be used gratuitously. Telecasters must consider the context in which violence is shown. Violence must not be divorced from its consequences, both moral and physical. Violence should not be exaggerated in relation to the context in which it occurs. Particular caution should be exercised when programming deals with both sexual and violent themes. Similarly, suicides, hangings, and the like should not be depicted in great detail or at length. Programs which are likely to adversely affect children's sensibilities should not be aired during children's viewing hours.

I. PRELIMINARY STATEMENT

1. The medical and psychological community has shown serious interest in the effects of television violence for more than twenty years. In 1972 the U.S. Surgeon General's Advisory Committee on Television and Social Behavior concluded three years of investigation on the topic with a finding that the viewing of televised violence can cause later aggression by some viewers.¹ In 1976 the American Medical Association passed a resolution declaring that television violence threatens the health and welfare of young Americans.² In 1982 a Surgeon General's study conducted by the National Institute of Mental Health confirmed that "there is a clear consensus among most researchers that television violence leads to aggressive behavior."³ In 1984 the Attorney General's Task Force on

¹Surg. Gen.'s Scientific Advis. Comm. on Television & Social Behavior, Television and Growing Up: The Impact of Television Violence (1971).

²Am. Med. Ass'n, Proceedings of the House of Delegates, June-July, 1976, 280.

³Nat'l Inst. of Mental Health, Television and Behavior: Ten Years of

Family Violence concluded, "The evidence is becoming overwhelming that . . . violence on television . . . may contribute to normal adults and children learning and acting out violent behavior."⁴

2. The American Psychiatric Association has also taken a firm stand on the issue of television violence. In 1987 the Medical Director of the APA expressed the Association's support of Congressional efforts to reduce the level of violence on television and stated: "The evidence is overwhelming that violence in television programming can have a negative and severe behavioral impact on young people and adults. As medical professionals we feel an obligation to counsel against adverse health effects when sufficient scientific evidence supports such a viewpoint."⁵ Similarly, in 1990, the American Academy of Pediatrics issued a policy encouraging all pediatricians to advise parents to limit their children's television viewing to one or two hours per day at most due to the scientific consensus surrounding the hazards of viewing television violence.⁶ Additionally, the American Psychological Association, after completing a five-year investigation, issued a resolution in 1992 on the issue of television violence: "the conclusion drawn on the basis

Scientific Progress and Implications for the Eighties (D. Pearl, L. Bouthilet & J. Lazar, eds. 1982).

4

⁵Letter from Melvin Sabshin, M.D., Dir. of the Am. Psych. Ass'n, to Sen. Paul Simon, June 18, 1987, reprinted in Hearings on S. 844 Before the Subcomm. on the Const. of the Senate Judiciary Comm., 100th Cong., Sess. 1, 976.

⁶Am. Acad. of Pediatrics, Comm. on Communications, Children, Adolescents, and Television, 85 Pediatrics 1119-20 (1990).

of twenty-five years of research . . . is that viewing televised violence may lead to increases in aggressive attitudes, values, and behavior, particularly in children."⁷ These firm positions taken by many leading health authorities regarding television violence and its effects on viewers are based on the nearly universal findings of the more than three thousand research projects, studies, reports and commentaries published in the United States between 1960 and 1992 that link the viewing of television violence to increased aggression, desensitization and fear in children.

3. The need for action has never been more apparent. The United States is suffering from an unprecedented epidemic of violence. One million of our nation's inhabitants die prematurely each year as the result of intentional homicide or suicide.⁸ Our homicide rate is many times higher than that of any other industrialized nation. The Federal Bureau of Investigation's Uniform Crime Reports for 1991 show that the rate of violent crime by people of all ages recently reached a record high -- up 33% since 1982. Additionally, the rate of arrests of juveniles for violent offenses in 1990 was 27% higher than in 1980. The Reports indicate that the rate was higher for youths of all races, social classes, and life styles.⁹

⁷Am. Psych. Ass'n, Big World, Small Screen, in Report of the American Psychological Association's Task Force on Television and Society (1992).

⁸C. Everett Koop & G. Lundberg, Violence in America: A Public Health Emergency, 267 J. Am. Med. Ass'n 3075 (1992).

⁹Violent Crime by Young Is Up 25% in 10 Years, N.Y. Times, Aug. 30,

4. For reasons that are no longer valid, the Commission, in the 1970's, declared that it would not regulate violence in television programming. Due to a lack of governmental regulation and a demonstrated unwillingness on the part of the television industry to regulate itself, the proliferation of violent programming continues. Each day that passes brings further harm to the mental health of young television viewers, and consequently to our society. The Petitioner submits that the Commission has an important and long-neglected role to play in alleviating the harm caused by television violence and that the Commission has the authority to regulate televised violence in order to safeguard the public interest.

II. TELEVISION VIOLENCE IN AMERICAN LIFE

5. Americans of all ages and backgrounds watch astoundingly large amounts of television. As of January 1992, 98% of all American homes had at least one television, and 65% had two or more.¹⁰ In 1990 the average American two-to five-year-old child watched 3.9 hours of television per day, or 27 hours per week.¹¹ During 1991, the average American aged two and older watched 28.2 hours of television per week; this accounts for approximately one-quarter of

1992, at 27.

¹⁰Electronic Industries Ass'n, data provided to Petitioner (January 1992).

¹¹A.C. Nielsen Co., Nielsen Report on Television 1990.

their waking hours.¹² In our urban centers, an average family views about 77 hours per week. In these families' homes, a television is on 11 hours per day on average.¹³ One indication of how strongly television influences children's lives is the estimate that by the time many American children graduate from high school they will have watched television for approximately 22,000 hours, twice as many hours as they will have spent in school.¹⁴

6. It is clear that children are watching extraordinarily large amounts of television. It is also clear that many of these children are watching violent programming without any supervision or guidance. A study completed in 1991 for the Corporation for Public Broadcasting found that 47% of surveyed children aged six to seventeen had a television set in their own room. Only 50% of these children reported that their parents set any rules at all regarding their television viewing.¹⁵

7. In 1990 Gerbner and Signorielli published the most recent of their now-famous Violence Profiles, which measure violence on network television and cover the period from 1967 to 1989. In the 1990 Profile's introduction, the authors conclude:

The most striking aspects of the findings is the

¹²A.C. Nielsen Co., Nielsen Report on Television 1991.

¹³Conway Daly, TV Watching Has Marked Effect on Family Life: Study, Montreal Gazette, May 14, 1992.

¹⁴Fred M. Hechinger, Fateful Choices 165 (1992).

¹⁵Nat'l Coalition on Television Violence, 13, No.1-4, Nat'l Coalition on Television Violence News 9 (1992).

remarkable stability in violent representations. Individual programs change but the overall structure of dramatic representations endures over time. . . . This update reveals that the percent of prime-time programs using violence remains more than 7 out of 10, as it has been for the entire 22-year period of this project. The rate of violent acts in prime time likewise remains between 5 and 6 per hour. About half of all prime time dramatic characters are involved in violence and about 10 percent in killing, as they have been since 1967. . . . Children's weekend daytime programming remains saturated with violence. In each of the past three seasons children were entertained with more than 25 acts of violence per hour committed by more than 7 out of 10 characters in 9 out of 10 programs. The Index for these years was at or above the 22-year average.¹⁶

Gerbner and Signorielli also probed the effect that deregulation of the television industry may have had on the amount of violence portrayed on television:

What effect, if any, did deregulation have on television violence? We can answer that question by comparing programs broadcast before and after 1980. The most significant difference seems to be the dismantling of codes pertaining to violence during children's programming. The rate for weekend daytime children's programs was 18.6 violent acts per hour before 1980 and 26.4 acts per hour after 1980.¹⁷

8. There is no indication that television has recently altered its emphasis on violent fare. A special study commissioned by TV Guide in April of 1992 was designed to assess the content of contemporary television programming. The Center for Media and Public Affairs, a nonprofit monitoring company, was enlisted to tape, tabulate, computerize, and analyze the programming of ten

¹⁶G. Gerbner & N. Signorielli, Violence Profile 1967 Through 1988-89: Enduring Patterns 2 (1990).

¹⁷Id. at 3.

Washington, D.C. channels for an 18-hour period (6 a.m. to midnight) on April 2, 1992. The ten channels were the local affiliates of ABC, CBS, NBC, Fox, and PBS; one non-affiliated station, WDCA; plus the cable channels of WTBS, the USA Network, MTV and HBO. TV Guide notes that the program schedules during the 18-hour period "were notable only for their ordinariness: no untypically violent movies like 'Rambo' or 'Scarface' were shown; even the news was light on violent events. . . ." The findings of this study are striking:

A total of 1,846 individual acts of violence; 175 scenes in which violence resulted in one or more fatalities; 389 scenes depicting serious assaults; 362 scenes involving gunplay; 673 depictions of punching, pushing, slapping, dragging, and other physically hostile acts; 226 scenes of menacing threats with a weapon In fictional programming alone, we found more than 100 violent scenes per hour across the 10 outlets studied. Well over a third of all the violence (751 scenes) involved some sort of life-threatening assault. Cartoons were the most violent program form, with 471 scenes. (Our study shows a glut of super-hero-style cartoons that feature more 'human' characters than earlier Tom & Jerry type fare; these realistic cartoons may have an even stronger influence on children.)¹⁸

The conclusion that TV Guide draws from the evidence obtained in this study is inescapable: "violence remains a pervasive, major feature of contemporary television programming and it's coming from more sources and in greater volume than ever before."¹⁹

9. The National Coalition on Television Violence

¹⁸Neil Hickey, How Much Violence?, 40 TV Guide No. 34, 10 (1992).

¹⁹Id. at 11.

conducted studies in the mid-1980's of 18 networks on broadcast and cable television and found, "[T]he advent of cable TV, instead of decreasing the average consumption of violent entertainment, has increased the intake of violence by an average of 50% for families subscribing to a pay cable movie channel."²⁰

10. Similarly, Gerbner and Signorielli conclude:

Video mayhem pervades the typical American home, in which the television set is on for an average of seven hours each day. Cable seems only to increase the penetration of its patterns into everyday life. For the past 22 years, at least, adults and children have been entertained by about 16 violent acts, including two murders, in each evening's prime time programming. In addition, our children are exposed to more than 20 acts of violence during each hour of television on Saturday and Sunday mornings. We have been immersed in a tide of violent representations that is historically unprecedented. Through an era of deregulation, corporate shakeups, and increased competition confronting the networks in recent years, this tide shows little sign of receding.²¹

Signorielli similarly notes that television viewers have little ability to avoid violent programming: "The program mix is such that the average viewer has little opportunity to exercise any choice in viewing. Large audiences watch violent programs scheduled in time periods when large audiences watch television."²²

11. Harold Rosenberg, the Pulitzer-prize winning

²⁰Television Violence Antitrust Exemption: Hearings on S. 2323 Before the Senate Judiciary Comm., 99th Cong., Sess. 2, 925 (1986).

²¹G. Gerbner & N. Signorielli, Violence Profile 1967 Through 1988-89: Enduring Patterns 9-10 (1990).

²²N. Signorielli, Selective Viewing: Limited Possibilities, J. Comm. (1986).

critic for the Los Angeles Times, evaluated the television fare of the 1991-92 season and found the following:

TV's reliance on action and conflict leads it down the criminal path. . . . Series with crime themes consume about 20% of the new prime-time schedules on ABC, CBS, NBC, and Fox. Moreover, that total excludes such series as CBS' late night 'Crime Time' strip and '60 Minutes', ABC's '20/20' and NBC's 'Expose' that regularly feature crime stories. And it also ignores seven network movie blocs that gorge on both real and fictional sensational crime in an attempt to titillate or capture the attention of viewers. . . . Add to this the crime emphasis of predatory newscasts, tabloid programs and talk shows . . . and the picture becomes clear.²³

12. The American Psychological Association's 1992 report entitled "Big World, Small Screen: The Role of Television in American Society" found that "the average child witnesses 8,000 murders by the the time he/she graduates from elementary school and witnesses more than 100,000 assorted acts of violence."²⁴ In his 1992 book entitled Fateful Choices, Fred M. Hechinger of the Carnegie Council on Adolescent Development observes, "By eighteen, young people will have been exposed to as many as 18,000 televised murders and 800 suicides."²⁵

13. Dr. David A. Hamburg, President of the Carnegie Corporation, recently authored a book entitled Today's Children. He argues,

²³Howard Rosenberg, Television's Criminal Tendencies, L.A. Times, Sept. 26, 1991, at F1, reprinted in Michael Medved, Hollywood vs. America 198 (1992).

²⁴Am. Psych. Ass'n, Big World, Small Screen: The Role of Television in American Society (1992).

²⁵Fred M. Hechinger, Fateful Choices 165 (1992).

Television's graphic portrayal of violence as a means of dealing with life's problems has extensive repercussions. Although violence has long been an integral part of human history and of child development, no generation in history has ever grown up with so much exposure to vivid, immediate, and wanton violence divorced from moral as well as physical consequences.²⁶

Professor Todd Gitlin, a sociologist at the University of California at Berkeley, agrees with Dr. Hamburg. He adds:

[T]he viewer who doesn't close his eyes is not drawn to identify with the victims as they are barely on the screen long enough to warrant second thoughts. . . . There is a delirium of delight in the perpetrator's ability to get away with murder The sheer volume and magnitude of mayhem is utterly severed from any conceivably rational objectives.²⁷

14. George A. Comstock, who has written extensively on the issue, is not concerned only with the amount of violence on television, but also with its context. He notes:

Television is schizophrenic in its treatment of law enforcement. Police and private detectives solve crimes with a success rate matched in actual practice only by the ticketing of parking violators by meter maids. The sociologist Otto Larsen many years ago found that antisocial means frequently were employed in television drama to attain socially-approved goals. That often remains the case. On television, justice and law are not synonymous and the end quite often appears to justify the means.²⁸

15. Bandura, et al., have also expressed serious concern with the context in which violence is portrayed. They observe:

In most televised programs the 'bad guy' gains

²⁶Cong. Rec. S10325 (daily ed. July 27, 1992) (remarks of Sen. Paul Simon).

²⁷Michael Medved, Hollywood vs. America, 190 (1992) ((quoting from T. Gitlin, Who are the World? (Am. Enterprise Instit. conference paper March 10, 1992)).

²⁸George A. Comstock, The Evolution of American Television 175 (1989).

control over the important resources and amasses considerable social and material rewards through a series of aggressive maneuvers, whereas his punishment is generally delayed until just before the last commercial. Thus children have opportunities to observe many episodes in which antisocially aggressive behavior has paid off abundantly and, considering that immediate rewards are much more influential than delayed punishment in regulating behavior, the terminal punishment of the villain may have a relatively weak inhibitory effect on the viewer.²⁹

16. Additionally, many analysts have expressed serious concern over the trend in television to portray violence as relatively harmless, clean, and fun. While real violence is chaotic, painful, and often bloody, television violence is often quite different. Stuart Gordon, an accomplished director of horror movies, recently discovered the difference while observing a hospital emergency room for a project. Gordon learned that, while fictional fights often last minutes and produce few serious injuries, in real life,

The person who throws the [first] punch breaks his hand, and the other person's jaw is broken. And that's the end. You break a chair over somebody's head, and that person's got a concussion and is probably unconscious for a couple of weeks. But it's something you see all the time on TV and you assume, you know, it's a fun thing to do.³⁰

17. Many television industry representatives argue that the violent content of television programming merely reflects the violent nature of contemporary American life. However, recent research casts serious doubt on this

²⁹A. Bandura, D. Ross, & S.A. Ross, Vicarious Reinforcement and Imitative Learning, 67 J. Abnormal & Soc. Psych. 601-97 (1963).

³⁰Michael Medved, Hollywood vs. America 196 (1992) (citing Sean Mitchell, Gore Galore USA Weekend, July 12-14, 1991, at 5 (quoting Stuart Gordon)).

explanation. Lichter, Lichter, and Rothmann conducted a content analysis of prime-time programming, and then compared it with crime and violence rates in the United States. After reviewing more than 600 shows, they concluded:

Our studies show that an evening of primetime puts to shame a night at the station house. Violent crime is far more pervasive on television than in real life, and the disparity widens as the danger increases. For the most serious crime of all, the difference is most dramatic. Since 1955 television characters have been murdered at a rate 1,000 times higher than real-world victims.³¹

III. THE DETRIMENTAL EFFECT OF TELEVISION VIOLENCE ON CHILDREN AND SOCIETY

18. Three different methods have been used to study the relationship between television viewing and aggressive behavior. These include the laboratory experiment, the field experiment, and the naturalistic study. As Dubow and Miller conclude, the results obtained from each of these research methods support the conclusion that viewing television violence plays a causal role in the development of aggression.³²

19. Evidence from laboratory experiments has overwhelmingly indicated that children who watch a film with

³¹Id. at 197 (citing S.R. Lichter, L.S. Lichter, & S. Rothmann, Watching America: What Television Tells Us About Our Lives (1991)).

³²E. Dubow & L. Miller, Processes Influencing the Relation Between Television Violence Viewing and Aggressive Behavior 5-7 (1992) (manuscript, to appear in Television Effects on Children (T.M. Williams ed.)).

aggressive content imitate aggressive behavior seen in the film, show an increase in other forms of aggressive behavior, and are subsequently more aggressive than children who see either a "neutral" film or no film at all.³³ L. Rowell Huesmann, a psychologist who has studied the question of media violence and aggression for the last twenty years, writes,

There can be little doubt that in specific laboratory settings exposing children to violent behavior on film or TV increases the likelihood they will behave aggressively immediately afterward. Exposure to violent TV scenes clearly causes many children to act more aggressively in this situation.³⁴

20. Field studies on children in various countries and settings have also shown a link between aggressive behavior and exposure to television violence.³⁵ Aletha Huston, Co-Director and Co-Founder of the Center for Research on the

³³See, A. Bandura, D. Ross, & S.A. Ross, Imitation of Film-Mediated Aggressive Models, 66 J. Abnormal & Soc. Psych. 31 (1963); Liebert and Baron, Short-term Effects of Televised Aggression on Children's Aggressive Behavior, in Television and Social Behavior: Vol. 2. Television and Social Learning (Murray, Rubinstein & Comstock eds. 1972); G.A. Comstock, New Emphases in Research on the Effects of Television and Film Violence, in Children and the Faces of Television: Teaching, Violence, Selling (E.L. Paler & A. Dorr eds. 1980); Aggression: Theoretical and Empirical Reviews, Vol. 2: Issues and Research 103-25 (R.G. Geen & E.I. Donnerstein eds. 1983); R.G. Geen & S.L. Thomas, The Immediate Effects of Media Violence on Behavior, 42 J. Soc. Issues 7-28 (1986); R.G. Geen, Human Aggression (1990).

³⁴Television Violence Antitrust Exemption: Hearings on S. 2323 Before the Senate Judiciary Comm., 99th Cong., Sess. 2, 925 (1986) (testimony of L. Rowell Huesmann, Ph.D. & Leonard D. Eron, Ph.D. June 20, 1986).

³⁵See Steuer, Applefield & Smith, Televised Aggression and the Interpersonal Aggression of Preschool Children, 11 J. Experimental Child Psych. 442-447 (1971); Wells, Television and Aggression: Replication of an Experimental Field Study (1973) (unpublished manuscript on file with the Univ. of Chicago Grad. Sch. of Business); Leyens, et al. The Effects of Movie Violence on Aggression in a Field Setting as a Function of Group Dominance and Cohesion, 32 J. Pers. & Soc. Psych. 346-360 (1975).

Influence of Television on Children, reported in her study for the Surgeon General's Advisory Committee on Television and Social Behavior, that over a nine-week period, groups of four-year-old children who were shown cartoons containing violence (Batman and Superman) "were subsequently more likely to hit other children, call people names, fail to obey classroom rules, and become impatient when they encountered minor frustrations," than two other groups of children that were shown either non-violent programs or "pro-social" programs emphasizing non-violent ways to resolve conflicts.³⁶

21. Naturalistic studies on the relationship between viewing television violence and aggression in natural environments support the conclusions drawn from laboratory experiments and field studies.³⁷ Researchers have also conducted longitudinal studies, which track the relationship between viewing violence and aggression over time, that indicate a significant correlation.³⁸ The results of longitudinal research suggest, according to Huesmann and Miller, "[T]he effect of television violence viewing on

³⁶Hearings on S. 844 Before the Subcomm. on the Const. of the Senate Judiciary Comm., 100th Cong., Sess. 1, 976. (testimony of Aletha C. Houston, Ph.D. June 25, 1987).

³⁷See, e.g., L.D. Eron, Relationship of TV Viewing Habits and Aggressive Behavior in Children, 67 J. Abnormal & Soc. Psych. 253-63 (1963); Huesmann, et al., Stability of Aggression over Time and Generations, 20 Developmental Psych. 1120-34 (1984).

³⁸See, e.g., L.D. Eron, Parent-Child Interaction, Television Violence, and Aggression of Children, 37 Am. Psychologist 197-211 (1982); L.D. Eron, et al., Does Television Violence Cause Aggression?, 27 Am. Psychologist 253-63 (1972).

aggression is relatively independent of other likely influences and of a magnitude great enough to account for socially important differences."³⁹

22. Several noteworthy and conclusive studies warrant particular attention. In a 22-year prospective study of an age cohort in a semi-rural American county (875 individuals), Huesmann and Eron considered whether the television viewing of eight-year-old boys predicted the seriousness of criminal acts they committed by age 30. The results indicated that, even after controlling for the boys' baseline aggressiveness, intelligence, and socioeconomic status at age eight, the boys' television violence viewing at age eight correlated significantly with the seriousness of the crimes for which they were convicted by age 30. The study found that childhood television viewing patterns were a better predictor of later aggression than social class, parent's behavior, child rearing practices, and many other measured variables included in the study.⁴⁰

23. Huesmann and Eron's findings are consistent with the results of short-term studies. In 1991 Wood, Wong and Chachere analyzed previous short-term studies on television violence and aggression. They concluded that the studies indicated that exposure to media violence caused, on the

³⁹L.R. Huesmann & L.S. Miller, Long-Term Effects of Repeated Exposure to Media Violence in Childhood (manuscript to appear in 3 Public Communication and Behavior (G. Comstock ed. 1992)).

⁴⁰L.R. Huesmann, L.D. Eron, M.M. Lefkowitz & L.O. Walder, Stability of Aggression over Time and Generations, 20 Develop. Psych. 1120-1134 (1984).

average, a significant increase in children's aggressiveness as measured by observation of their spontaneous, natural behavior following exposure.⁴¹ Similarly, in 1990 Comstock and Paik analyzed the results of over 1000 comparisons derived from 185 different experiments, static field studies, and longitudinal studies using the most advanced methods of statistical meta-analysis. They concluded, "The data of the past decade and a half strengthens rather than weakens the case that television violence increases aggressive and antisocial behavior."⁴²

24. In 1973 Joy, et al., conducted a study of a small Canadian town, Notel, that was acquiring television for the first time due to prior problems with signal reception. The researchers used as control groups children from two similar communities that already had television. Forty five first- and second-grade students were observed over two years and objectively measured for rates of physical aggression. Rates of physical aggression did not change significantly among children in the two control communities. However, rates of physical aggression among children in Notel increased by 160%. The study concludes:

To summarize, there was a significant increase in the aggressive behavior of Notel children

⁴¹W. Wood, F.Y. Wong & J.G. Chachere, Effects of Media Violence on Viewers' Aggression in Unconstrained Social Interaction, 109 Psych. Bulletin 371-83 (1984).

⁴²G.A. Comstock & H. Paik, The Effects of Television Violence on Aggressive Behavior - A Meta-Analysis in Nat'l Research Council, A Preliminary Report to the National Research Council on the Understanding and Control of Violent Behavior at 54 (1991).

following the inception of television in their communities. This increase occurred for both physical and verbal aggressive behavior; it occurred for both boys and girls; it occurred at more than one age level; it occurred for children who were initially low in aggressive behavior as well as those who were initially high in aggressive behavior.⁴³

25. To evaluate whether exposure to television violence is a cause of societal violence, Centerwall compared the homicide rates of the United States and Canada to that of South Africa, where an affluent, Westernized white population remained without television until 1975.⁴⁴ Noting that blacks in South Africa live under quite different conditions than blacks in the United States, Centerwall limited the comparison to white homicide rates in South Africa and the U.S., and the total homicide rate in Canada (which was 97% white in 1956).⁴⁵

26. Centerwall's findings show that homicide rates among white Americans nearly doubled between the introduction of television in the 1950's and 1975.⁴⁶ The biggest surge came after 1965, just as the first television generation reached adolescence.⁴⁷ Centerwall found that age distribution, urbanization, economic conditions, alcohol consumption, capital punishment, civil unrest, and the availability of firearms could not account for the

⁴³L.A. Joy, M.M. Kimball, & M.L. Zabrack, Television and Children's Aggressive Behavior in The Impact of Television: A Natural Experiment in Three Communities 334 (T.M. Williams ed. 1986).

⁴⁴B. Centerwall, Television and Violence: The Scale of the Problem and Where We Go From Here, 267 J. Am. Med. Ass'n 3059-3063 (1992).

⁴⁵Id. at 3060.

⁴⁶Id. at 3061.

⁴⁷Id.

increase.⁴⁸ Also, the increase could not be explained by the United State's unique experiences with the Vietnam War and the U.S. civil rights struggle because Canada's upward homicide trend mirrored that of the United States.⁴⁹ In the case of South Africa, the homicide figures remained flat for the years the country was without television, between 1950 and 1975.⁵⁰ But in 1987, the first South African television generation had come of age, and South Africa's homicide rate had more than doubled in twelve years.⁵¹ In both Canada and the U.S., homicide rates among whites remained relatively stable between 1974 and 1987.⁵² Centerwall concludes, "[I]f, hypothetically, television technology had never been developed, there would today be 10,000 fewer homicides each year in the United States, 70,000 fewer rapes, and 700,000 fewer injurious assaults."⁵³

27. Eron and Huesmann, summarizing the evidence in an article published in 1987, conclude,

We believe that it has been demonstrated conclusively both by us and by others that heavy exposure to televised violence is one of the causes of aggressive behavior, crime, and violence in society. The evidence comes from both the laboratory and real-life studies. Television violence affects youngsters of all ages, of both genders, at all socioeconomic levels and all levels of intelligence. The effect is not limited to children who are already disposed to being aggressive and is not restricted to this country.

⁴⁸Id.

⁴⁹Id.

⁵⁰Id.

⁵¹Id.

⁵²Id.

⁵³Id.

We have demonstrated that children in at least four other countries, Finland, Poland, Israel, and Australia, countries with different political and economic systems and varying in degree of control over television programming, also are affected in their aggressive behavior by the violence they observe on television.⁵⁴

28. In March of 1992, Dr. Leonard D. Eron gave testimony before the Senate Committee on Governmental Affairs on the subject of Youth Violence Prevention. Speaking on behalf of the American Psychological Association, Dr. Eron's testimony was unequivocal:

There can no longer be any doubt that heavy exposure to televised violence is one of the causes of aggressive behavior, crime, and violence in society. The evidence comes from both laboratory and real-life studies. Television violence affects youngsters of all ages, of both genders, at all socio-economic levels and all levels of intelligence. The effect is not limited to children who are already disposed to being aggressive and is not restricted to this country. The fact that we get this same finding of a relation between television violence and aggression in study after study, in one country after another, cannot be ignored. The causal effect of television violence on aggression, even though it is not very large, exists. It cannot be denied or explained away. We have demonstrated this causal effect outside the laboratory in real-life among many different children. We have come to believe that a vicious cycle in which television makes children more aggressive and these more aggressive children turn to watching more violence to justify their own behaviors. Statistically this means the effect is bidirectional. Practically it means that if media violence is reduced, the level of interpersonal aggression in our society will be reduced eventually.⁵⁵

29. Recently, particular concern has developed over

⁵⁴L.D. Eron, & L.R. Huesmann, Television as a Source of Maltreatment of Children, 16 School Psych. R., 200 (1987).

⁵⁵Youth Violence Prevention: Hearings Before the Senate Comm. on Governmental Affairs (testimony of Leonard D. Eron Mar. 31, 1992).

the depiction of sexual violence on television. It is apparent that much television violence is of a sexual nature; indeed, a 1992 content analysis of recently released Hollywood films, many of which quickly find their way to television, reveals that one out of eight films depicts at least one rape.⁵⁶ Several researchers have shown that, after having been exposed to violent scenes of a sexual nature, some males become sexually aroused, commiserate less with victims of rape, and increase their laboratory aggression against women.⁵⁷ Research has also indicated that these arousal and attitude patterns may have a relationship to actual real-world aggression toward women.⁵⁸ As Donnerstein, Slaby, and Eron conclude:

The studies on the effects of sexual violence on older youth (17-22) have found several antisocial effects. The research consistently indicates that exposure to violence against women that is either juxtaposed with mildly erotic scenes (slasher films) or is sexually nonexplicit (but contains rape scenes) results in callousness towards female victims of violence, especially rape. If anything, we might expect even stronger effects of such content on younger viewers who may lack the

⁵⁶B. Wilson, D. Linz, and E. Donnerstein, The Impact of Social Issue Television Programming on Attitudes toward Rape, Human Communications Research (in press).

⁵⁷See, e.g., E. Donnerstein, D. Linz, S. Penrod, The Question of Pornography: Research Findings and Policy Implications. (1987); D. Linz, Exposure to Sexually Explicit Materials and Attitudes toward Rape: A Comparison of Study Results, Journal of Sex Research, 26, 51-84, (1990) N. Malamuth and E. Donnerstein, The Effects of Aggressive-Pornographic Stimuli, In Berkowitz (ed.) Advances in Experimental Social Psychology, vol. 15, (1982); Linz, Donnerstein and Penrod, The Effects of Multiple Exposures to Filmed Violence Against Women, J. of Communications, 34, 130-147, (1984); N. Malamuth and J. Briere, Sexual Violence in the Media: Indirect Effects on Aggression Against Women, J. of Social Issues, 42, 75-92, (1986).

⁵⁸N. Malamuth, Predictors of Naturalistic Sexual Aggression, J. of Personality and Social Psychology, 50, 953-962 (1986)

necessary critical viewing skills and the experience to discount these portrayals. It is not unreasonable to assume that a young adolescent's first exposure to sex will come in the form of a mildly erotic, but violent scene from a rented video or a late-night cable movie. To a young adolescent who is searching for information about relationships, sexual violence in popular films may be a potent source of influence on initial attitudes towards sexuality.⁵⁹

30. Research also indicates that television violence may have other serious deleterious effects on some viewers. The results of two surveys of young male felons convicted and imprisoned for committing violent crimes including homicide, rape, and assault indicate that 22% to 34% of the felons reported having consciously imitated criminal methods learned from television. Indeed, "the more violent youthful offenders tended to report that such programs had modified the techniques of their criminal activities more than did the less violent."⁶⁰

31. Over the years, there have been a limited number of individuals who have published findings that run contrary to the overwhelming scientific support for the causal link between television violence viewing and increased aggressiveness. Although several of these reports were funded by the television industry, they continue to be cited by some observers as proof of continuing disagreement and uncertainty in the scientific community over the effects of television violence. One frequently mentioned report

⁵⁹Donnerstein, Slaby, and Eron. (1992 American Psychological Association's Commission on Youth and Violence, Media Section manuscript).

⁶⁰M.S. Heller & S. Polsky, Studies in Violence and Television 94, 129 (1976).

published by Freedman in 1984 is worthy of particular scrutiny. While Freedman did concede, "It seems clear that . . . viewing violent material on television or film in the laboratory can increase aggressive responses in the laboratory," he also concluded, "There is little convincing evidence that viewing violence on television in natural settings causes an increase in subsequent aggressiveness."⁶¹ There have been a number of critical responses to Freedman's report, the most recent being that of Huesmann, Eron, Berkowitz and Chaffee last year. Having reviewed Freedman's methodology and conclusions, these researchers found,

Freedman's conclusion of no causal effect was not justified at that time and is not justified now. It was a result of his misunderstanding of some data, his dismissal of laboratory experiments as irrelevant, his selective disregard of data contrary to his view, his overreliance on atypical field experiment data, his fluctuating criteria for evaluating positive and negative evidence, and his failure to approach the problem from an adequate theoretical perspective.⁶²

32. The vast scientific consensus surrounding the issue of television violence leaves little room for industry-sponsored arguments postulating its "cathartic value" or benign effects. Dr. Carole Lieberman, a psychologist who now heads the National Coalition on Television Violence, has written, "we readily accept that children learn the alphabet from 'Sesame Street', why can't

⁶¹J. Freedman, Effect of Television Violence on Aggressiveness, 96 Psych. Bulletin 228, 243 (1984).

⁶²L. Huesmann, et al., The Effects of Television Violence on Aggression: A Reply to a Skeptic, reprinted in (P. Suedfeld and P. Tetlock, eds 1992).

we accept that they learn the ABC's of murder and mayhem from gratuitously violent entertainment."⁶³

33. Similarly, William H. Dietz, a pediatrician and former Chairman of the American Academy of Pediatrics Task Force on Children and Television points out, "[T]housands of school-age children have learned to spell relief R-O-L-A-I-D-S . . . [and that] . . . next to Santa Claus, Ronald MacDonald is the man most widely recognized by children in the United States."⁶⁴ Dietz concludes, "If children can learn about Roloids and Ronald MacDonald from commercials that they see 3 or 4 times a day, they surely can learn from violence that they see 200 times a day."⁶⁵

34. A.M. Rosenthal, in a New York Times editorial published in May of 1992, spoke eloquently for the many Americans who are deeply concerned and frustrated by the violent images continually invading their homes. He writes:

Now we live in a cultural nuthouse, a mad world of blood, torture and murder that surrounds us in the movies and follows us home when we turn on TV "entertainment" Violence made fashionable in the cause of a buck is unworthy of people of talent. Aren't those who do that becoming ashamed of themselves? Haven't they discovered that ketchup can become blood?⁶⁶

35. It is clear that television programming has the capacity to affect viewers' attitudes regarding violence.

⁶³C. Lieberman, Violence: Merely Entertaining or Mainly Evil?, L.A. Times, May 15, 1992.

⁶⁴Television Violence Antitrust Exemption: Hearings on S. 2323 Before the Senate Judiciary Comm., 99th Cong., Sess. 2, 925, p. 72 (testimony of William H. Dietz, Jr., M.D., Ph.D., June 20, 1986).

⁶⁵Id.

⁶⁶A.M. Rosenthal, If Not Now, When? N.Y. Times, May 5, 1992.

It can incite, desensitize, and frighten viewers of all ages and of both genders. At the same time, there is good reason to believe that television can also educate and inform children regarding the effects and implications of violence. Due to television's important role in shaping children's attitudes toward violence, many experts believe that telecasters should assume a special responsibility to educate and inform children about violence and violent behavior. The sixth Rule contained in this Petition would require telecasters to perform this role. There is a good deal of evidence to suggest that television could effectively educate and inform children about violence. Indeed, television and other mass media have been used in other public health campaigns with great success. For example, in a public health campaign designed to prevent children from becoming smokers, scientists found,

With their appeal to young people, especially those at highest risk from smoking, mass media provide a particularly effective way to deliver smoking prevention messages. The approach developed in this study apparently tapped the power of the media to influence smoking norms among this highly impressionable age group, and prevented significant proportions of them from starting to smoke cigarettes.⁶⁷

Similarly, research evaluating the success of the Feeling Good series of television programs on health and fitness created by the Children's Television Workshop and broadcast in 1974 and 1975 found that, of the 33 behavioral goals

⁶⁷Flynn, et al. Prevention of Cigarette Smoking through Mass Media Intervention and School Programs 82 American Journal of Public Health, 834 (1992)

which were emphasized in the programs, there was strong evidence of behavioral improvement in 10 goals (meaning statistical significance as compared to a control group), partial evidence of improvement in 14 goals, and no evidence of improvement in only 9 goals.⁶⁸ This evidence from past television campaigns designed to prevent smoking, increase physical activity, and develop healthy eating habits indicates that television can be used to effectively educate, inform, and influence behaviors that contribute to a number of threats to public health. The record indicates that television has the ability to educate and inform children of the threat and implications of violent behavior as well as the dangers of prolonged exposure to televised violence. Scientific research indicates that although television has for decades contributed to the problem of violence in our society, television also may have the potential to help alleviate the problem of violence and perhaps even to help undo some of the harm it has already done to children.

IV. REGULATION OF TELEVISION VIOLENCE OUTSIDE THE UNITED STATES

36. Television violence is a matter of serious concern in many other countries, and in the international community as a whole. Sadly, the United States is often singled out

⁶⁸D.S. Solomon, Health Campaigns on Television, in Pearl, D., et al. Television and Behavior, Vol. 2, NIMH, 1982., at 315.

as the major supplier of violent programming to the rest of the world. Our success in exporting visual terror and mayhem is clearly second to none. In 1989 UNESCO published a report entitled "Violence in the Mass Media".⁶⁹ In its introduction, the Report asserts, "The evidence shows that consistent exposure to stories and scenes of violence and terror can mobilize aggressive tendencies, desensitize some and isolate others, intimidate many and trigger violent action in the few."⁷⁰

37. Many countries, including Canada, Great Britain, Finland, South Africa, Belgium, Australia, New Zealand, and France, have taken action to ameliorate the problem of television violence. In France, for example the Superior Audiovisual Council, an agency of the French government, drew up a specific directive pertaining to television violence in 1989 due to a significant increase in the broadcasting of made-for-television movies containing scenes of graphic violence deemed unsuitable for viewing by children under the age of 13.⁷¹ According to the French authorities, although television is associated with the idea of freedom of expression, it is also a medium used in a family context; therefore, it has an obligation to respect

⁶⁹G. Gerbner, Violence and Terror in the Media: UNESCO Report No. 102 on Mass Communications (1989).

⁷⁰Id. at 9.

⁷¹Superior Audiovisual Council of France, Directive of May 5, 1989 Concerning the Protection of Children and Young People in the Scheduling of Programs Broadcast by Public and Private Television Services, in D. Atkinson & M. Gourdeau, Summary and Analysis of Various Studies on Violence and Television at 49 (1991).

the necessity of protecting individuals, public order, and especially children.⁷² The Council requires the following from each program company:

not to broadcast programs intended for young people which contain scenes that could upset them;

to ensure that programs broadcast during peak viewing hours are suitable for family viewing;

not to broadcast erotic or violent films or programs between 6:00 a.m. and 10:30 p.m., nor promotions for such films or programs prior to 8:30 p.m.;

to provide appropriate signals to warn viewers of any program whose content could be offensive, particularly to young people;

not to broadcast any film or program that would offend community standards.⁷³

Additionally, dramatic programs that are considered to be for adults only must be shown with a red rectangle superimposed on the television screen that remains on-screen for the duration of the program if the program is broadcast in the early or middle evening. Films unsuitable for those under 13 years of age may be broadcast before 10:30 p.m. only if they have been cleared with the Council.⁷⁴ Finally, the Council has the authority to impose fines on companies that do not comply with its rules. In recent years, two French film companies have been fined a total of over 10 million francs for airing violent films on television before 10:30 p.m. without authorization.⁷⁵

⁷²Id.

⁷³Id. at 50.

⁷⁴Id.

⁷⁵Id.

38. Australian authorities too have acted to minimize the harmful effects of television violence. While the Australian Broadcasting Tribunal, the official regulatory body for broadcasting, has called for self-regulation, it has also recently recommended that broadcasters should comply with a code of conduct to be drawn up by the industry, with extensive input from the Tribunal and public interest groups. In its 1990 report, the Tribunal recommended that compliance with this code of conduct should be evaluated when broadcasters are attempting to renew their licenses. The recommended Code would prohibit violent acts or scenes in all television advertising, and would require broadcasters to exercise particular care with regard to the depiction of violence out of context. In addition, the Tribunal recommended that an extensive program violence classification system be enacted by the television industry, and that viewers be warned of violent content by means of appropriate symbols appearing during violent programs.⁷⁶

39. New Zealand's Broadcasting Standards Authority has developed even more explicit codes regarding the broadcast of violent images on television. The following is a partial list of elements in New Zealand's Codes of Broadcasting Practice for Radio and Television:

[A]dvertisements should not clearly portray

⁷⁶D. Atkinson, & M. Gourdeau, Summary and Analysis of Various Studies on Violence and Television 24-25 (1991) (citing Australian Broadcasting Tribunal, Television Violence in Australia: Report to the Minister for Transport and Communications (4 vols 1990.)).

violence or aggression . . .; the time of transmission is an important consideration in scheduling of programs which contain violence . . .; violence is unacceptable if it is presented in a manner which will unnecessarily disturb, alarm, or distress children during their generally accepted viewing times . . .; the gratuitous use of violence for the purposes of heightened impact is to be avoided . . .; the combination of violence and sexuality in a way designed to titillate is not sanctioned.⁷⁷

In addition, the New Zealand Codes include a program classification and scheduling policy that reads as follows:

"General" [G] programs are those which can be watched by both children and adults; they may be broadcast at any time of the day; "Parental Guidance Recommended" [PGR] indicates programs intended for adults rather than for children , although children may watch them in the company of an adult. Such programs should be broadcast between 9:00 a.m. and 4:00 p.m., and between 7:00 p.m. and 6:00 a.m.; "Adults Only" [AO] indicates programs intended for adults. Such programs are not recommended for anyone under 18, and may only be broadcast between noon and 3:00 p.m. on schooldays, and between 8:30 p.m. and 5:00 a.m."⁷⁸

40. The British Broadcasting Corporation has also developed guidelines relating to the depiction of violence on television. Without implementing a policy of censorship, the BBC has several policies which protect youthful viewers from excessive dramatic violence. Such policies include: cautionary warnings at the beginning of programs, BBC leadership in informing the public about violence on television, extensive program classifications, vigilance when purchasing programs, particularly those from the United

⁷⁷D. Atkinson, & M. Gourdeau, Summary and Analysis of Various Studies on Violence and Television 37-38 (1991)(citing New Zealand Broadcasting Standards Authority, Codes of Broadcasting Practices for Radio and Television (1989)).

⁷⁸Id.

States, and a stringent standard whereby any program broadcast before 9:00 p.m. must not have a level of violence high enough to make it unsuitable for viewing by children.⁷⁹

41. At the same time, the Broadcasting Standards Council, created in 1989, has developed a Code of Practice after taking into consideration both the views of industry interest groups and the public. While adherence to the Code is not mandatory, the British television industry is expected to exercise responsibility regarding the depiction of violence depictions. The Code provides detailed guidelines regarding dramatized violence on television:

With respect to fiction, drama programs and films, special care must be taken regarding violence particularly if the program was produced some time ago. While there may be legitimate uses of violence, its depiction must not be gratuitous. First, the context in which the violence occurs must be considered. Violence must not be exaggerated in relation to the message it is supposed to convey. Violence against women must not be a pretext for presenting scenes of sexual abuse and eroticism; nor should programs adversely affect the sensitivity of children. In this respect also, suicides and hangings should not be described explicitly. Insofar as possible, children's programs should avoid violence.⁸⁰

42. In Finland, the governmental authority responsible for broadcast regulation, the Administrative Council, promulgated policy principles in 1987 and updated them as recently as April of 1992. These policies read in part as follows:

⁷⁹Id. at 43-45(citing British Broadcasting Corp., Violence on Television: the Report of the Wyatt Committee (1987)).

⁸⁰Id. at 47-48(citing British Broadcasting Standards Council, A Code of Practice (1989)).

1. [Finnish broadcasters] will enhance their watchfulness in the selection of action series and thrillers. The display of violent behavior models must be especially avoided, as well as any calculated violence. Episodes of approved series must also be viewed separately and removed from the schedule if necessary

2. [Finnish broadcasters] will increase the amount of preliminary information given on serials and films both on TV and in the press. Program presentations must be developed into a declaration of content which will provide adequate background information. The companies should deal with problems regarding television violence in their own progress on the basis of available research material and provide information on the effects of television violence, especially to parents

3. As a guideline, [Finnish broadcasters] will not broadcast programs unsuitable for children earlier than 9:00 P.M. This fact should also be widely publicized.

4. The Administrative Council emphasizes that in program choices [Finnish broadcasters] should prefer programs which propound a positive attitude to life, human values and non-violence. The company's program policy has not hitherto been satisfactory on this count. The principles of a positive attitude and non-violence should be implemented primarily in the choice of programs for children. Programs suitable for and interesting to children should be consistently placed in the daytime slots or in the early evening⁸¹

In addition, each Finnish broadcast program must have a designated editor who may be fined, imprisoned, or required to pay compensation for allowing the transmittal of a program that violates the Administrative Council's policy principles' provisions on violent programming.⁸²

43. In Japan, the Federal Broadcast Law has required

⁸¹Minutes of Meeting of the Administrative Council of the Finnish Broadcasting Company, March 20, 1987.

⁸²Program Regulations of the Finnish Broadcasting Company, Approved by the Administrative Council, April 24, 1992.

commercial broadcasters to develop explicit program standards covering the depiction of violence and crime. As a result, the National Association of Commercial Broadcasters has published Broadcasting Standards which contain the following provisions on violence and crime:

IX. Violence

- 59. Expressions of violence, regardless of its intent, shall be handled in an unfavorable and negative light.
- 60. Expressions of violence shall be limited to a minimum.
- 61. Acts of violence -- murder, torture, rape, lynchings, and other such acts which tend to arouse the audience, as well as both mental and physical pain, should not be expressed in [a] stimulative way or in exaggeration.

X. Crime

- 62. Crime should not be portrayed in a favorable way, nor shall criminals be glorified
- 67. Caution shall be exercised in the use of firearms or swords, etc. and care shall be taken as not to arouse the feelings of imitation of means of killing or wounding.⁸³

44. In South Africa, the national Broadcasting Commission approved guidelines on the handling of violence on television in December of 1987. The guidelines include the following components:

- 8. Scheduling of Programmes ("Watershed")
 - Programme producers and directors should

⁸³Broadcasting Standards of the National Association of Commercial Broadcasters of Japan, Broadcast Administration Bureau, Ministry of Posts and Telecommunications, Tokyo, Japan.

- always bear the probable time of broadcast in mind when the program content is evaluated.
- Programmes with higher "adult" content will be broadcast late in the evening from Monday to Thursday. This implies that the earlier the time of broadcast, the more suitable the content must be for children, so that they can safely watch it on their own.
- A "watershed" time (9:00 p.m.; Monday to Thursday) has been accepted for the broadcast of programmes with a higher content of violence. During weekends even greater caution will be exercised.
-
- Violent scenes will, in many cases, make the programme unsuitable for early placing

9. Guidelines for Children's and Educational Programmes

- Tiny-tots and young children do not understand the nuances of good and evil and are inclined to commit themselves to one side or the other when it comes to the solution of conflict. The use of violence as an easy way of solving conflict must be avoided. . . .
- The impression must never be created that violence does not lead to injury. . . .
- Avoid dangerous situations that children could try and emulate. For example, karate-chops, knives, ropes, broken bottles
- Heroes or positive characters (in other words, those with whom children will identify) must, whenever possible, use only legal methods to attain their goals.

10. Programme Publicity

- Previews of programmes must be balanced summaries of the programmes and must not contain only scenes of action and violence.
- If a programme contains violence, the viewers must be informed.
- The broadcast time of the preview must be borne in mind so that children who may be watching will not be shocked

unnecessarily or, on the other hand,
have their curiosity aroused
unnecessarily.⁸⁴

45. In Belgium, the television industry and its regulators have responded to the threat posed by television violence by following a procedure whereby stations are to avoid broadcasting violent programming during the early evening. During other times, broadcasters must superimpose a small, continuously flashing, white, square symbol on the bottom of the television screen in order to warn viewers of a program's violent content.⁸⁵

V. THE CONSENSUS FOR IMMEDIATE REGULATORY ACTION

46. Concern over the violent content of American television has not been limited to parents, social scientists, or even politicians. Indeed, in an interview with the magazine Broadcasting in June of 1991, Commissioner James H. Quello sounded an alarm regarding the level of violence on television and its effect on American society. Quello, who has served with the FCC since 1975, and who recently became the acting chairman of the Commission, observed: "I am not a stuffed shirt, but society has gotten so desensitized. Murder is accepted as a way of life; you can't blame television entirely, but it plays a role."⁸⁶ However, Quello was also recently quoted in an

⁸⁴South African Media Task Force Guidelines (1987) (Petitioner's copy).

⁸⁵Paul Gesell, "Television's Link with Violence", Ottawa Citizen, February 13, 1993, p. B1.

⁸⁶Broadcasting, vol. 120, no. 24, (June 17, 1991) at 26.

Associated Press story that implied the Commission could not regulate televised violence without enabling legislation:

Quello said [the] Commission basically is powerless to do anything about TV violence: "All we can do is mention in a speech that Hollywood and cable and the networks are actually flooding the airwaves with too many violent programs and some of these kids are starting to imitate the violence they see on television."⁸⁷

The Petitioner submits that this position, if accurately attributed, should be reconsidered. One might ask what purpose the existence of the Commission serves if the most the Commissioners can do to protect children from harmful programming is mention the problem in speeches. The Commission's regulatory power is very broad, and lack of authority to act has not been among the reasons cited by the Commission for declining to regulate violence in television programming.⁸⁸ In 1975 the Commission, in a brief filed with the Seventh Circuit, acknowledged that it had the authority to regulate violence in television programming but nonetheless chose to trust the television industry to regulate itself.⁸⁹ The Commission adopted its laissez-faire position on televised violence in the 1970's not out of fear that it lacked the authority to regulate televised violence, but out of fear that regulating televised violence might

⁸⁷Associated Press, Quello Backs Proposed Bill to Restrict TV Violence in Children's Programs, March 12, 1993.

⁸⁸See In Re Corey, 37 F.C.C.2d 641 (1972); In Re Polite Society, 55 F.C.C.2d 810 (1975); FCC, Report on the Broadcast of Violent, Indecent, and Obscene Material, 51 F.C.C.2d 418, 420 (1975).

⁸⁹See paragraph 75 infra on the Commission's brief quoted in Writer's Guild of America, W., Inc. v. FCC, 423 F. Supp. 1064, 1156 (C.D. Cal. 1976).

violate the First Amendment.⁹⁰ However, as explained infra, First Amendment concerns no longer justify inaction. Quello himself, if accurately quoted, would seem to agree: "How far should First Amendment rights extend if they are actually harming the public interest? There's a conflict there, and I think the public interest has to prevail."⁹¹

47. Newton Minow, former chairman of the FCC and current director of the Annenberg Washington Program in Communications Policy at Northwestern University, has also been severe in his critique of excessive violence on television. In a speech given on May 9, 1991, Minow explained, "In 1961, I worried that my children would not benefit much from television, but in 1991 I worry that my children will actually be harmed by it."⁹² He continued,

I think that the most troubling change over the past 30 years is the rise in the quantity and quality of violence on television. . . . One evening as I watched, with my remote control in hand, I flipped through the channels and saw a man loading his gun on one channel, a different man aiming a gun on a second, and another man shooting a gun on a third.⁹³

48. Within the media itself, there are artists who recognize the damage that is being done by gratuitously violent films and television programming. Producer David Puttnam has spoken out on several occasions concerning the need for action. In 1989 he drew the following parallel:

⁹⁰See n. 87 supra.

⁹¹Associated Press, Quello Backs Proposed Bill to Restrict TV Violence in Children's Programs, March 12, 1993.

⁹²Broadcasting, vol. 120, no. 19 (May 13, 1991) at 34.

⁹³Id.

What we think of now as the excess of the Roman circuses, where in the end hundreds of thousands of people died, didn't start that way. . . . They started legitimately as circuses, extremely mild entertainment. But the audience demand for more and more resulted over a period of several hundred years in that form of entertainment becoming more and more bloody, more and more grotesque.⁹⁴

As for the current situation, he pleaded, "[S]omeone has to say, 'Enough' -- because this is a disaster, we are destroying ourselves."⁹⁵ With the submission of this Petition for Rulemaking, the Foundation to Improve Television is asking the Commission to respond to the majority of Americans who, with increasing concern regarding the rising level of television violence, are crying out "Enough!".

49. The findings and conclusions of acknowledged experts and organizations discussed supra lend ample support to the proposition that televised violence is harmful to young viewers, detrimental to our society, and contrary to the public interest. In the 1979 Zamora v. Columbia Broadcasting System decision, the presiding judge observed, "One day, medical or other sciences with or without the cooperation of programmers may convince the FCC or the Courts that the delicate balance of First Amendment rights should be altered to permit some additional limitations in programming."⁹⁶ It is our hope that, given the overwhelming

⁹⁴Michael Medved, Hollywood vs. America 199 (1992) (citing Bill Moyers, Bill Moyers: A World of Ideas 327 (1989) (quoting David Puttnam)).

⁹⁵Id. at 200

⁹⁶Zamora v. Columbia Broadcasting System, 480 F.Supp. 199 (S.D.Fla.1979)

evidence now before the Commission, the time for action has finally arrived.

VI. THE COMMISSION SHOULD ISSUE THE PROPOSED RULES BECAUSE REGULATING TELEVISION PROGRAMMING TO PROTECT CHILDREN FROM PROGRAMS CONTAINING AN EXCESSIVE AMOUNT OF DRAMATIZED VIOLENCE IS IN THE PUBLIC INTEREST AND THE PROPOSED RULES ARE PERMISSIBLE PROGRAMMING REGULATIONS.

50. As suggested by the now extensive evidence that televised violence is harmful to children, and by extension harmful to society, the public interest requires that the Commission regulate television programming containing an excessive amount of dramatized violence. The proposed Rules are reasonable and content-neutral time, place and manner restrictions that are narrowly drafted and essential to achieve the government's compelling interest in protecting children from harm caused by exposure to excessive dramatized violence on television. Rule 6 would additionally require educational and informational efforts from telecasters to help alleviate the harm done by television violence. The proposed Rules do not contemplate the Commission's editing proposed programs in advance of their transmittal, and they do not discriminate among programs on the basis of the messages conveyed thereby. Again, the Rules proposed by the Petitioner read as follows:

§ 73.____ Violent television programming.

1(a). Authorization, including but not

limited to, a construction permit, license, license renewal, franchise, etc., for the operation of a broadcast television station, cable franchise or other facility or arrangement for providing television programming to the public from the Federal Communication Commission or from any other Federal, state or local authority shall be denied or withdrawn from any licensee, broadcaster or other programming provider upon a finding by the appropriate authority that such party has followed, is following, or proposes to follow, a policy or practice of broadcasting or transmitting television programming containing an excessive amount of dramatized violence between the hours of 6:00 a.m. and 10:00 p.m.

(b). For purposes of this section, television programming contains an excessive amount of dramatized violence if it contains dramatized portrayals of killings, rapes, maimings, beatings, stranglings, stabbings, shootings, or any other acts of violence which, when viewed by the average person, would be considered excessive or inappropriate for minors.

(c). For purposes of this section, "violence" means the use or threatened use of physical force against another or against one's self, whether or not such act or threat occurs in a realistic and serious context or in a fantastic and humorous context. Idle threats, verbal abuse, and gestures without credible violent consequences are not "violence" for purposes of this section.

(d). For purposes of this section, "an excessive amount of dramatized violence" means an amount of dramatized violence inappropriate for minors or exceeding that permitted by the guidelines developed by the Commission pursuant to paragraph 7 of this section.

2. Telecasters shall provide appropriate advisories, both audio and visual, to warn viewers of any programming containing an excessive amount of dramatized violence telecast between the hours of 6:00 a.m. and 10:00 p.m. Such advisories shall explicitly refer to the violent content of the particular programming. Such advisories shall be shown at the beginning of any such programming, as well as at the conclusion of all commercial breaks during any such programming.

3. Telecasters shall superimpose an appropriate visual warning signal over any

programming containing an excessive amount of dramatized violence telecast between the hours of 6:00 a.m. and 10:00 p.m., which signal shall remain visible for the duration of the programming.

4. Telecasters shall not telecast commercial advertisements or promotions for upcoming programming between the hours of 6:00 a.m. and 10:00 p.m., which advertisements or promotions contain an excessive amount of violence.

5. Telecasters shall promulgate a set of common standards for classifying programming on the basis of violent content which shall be made public and available to all interested parties, published in generally available program guides, and displayed on-screen immediately prior to the transmittal of the programming to which it pertains. All telecasters shall classify their programming according to the programming classification standards required by this paragraph. The standards shall be developed in consultation with the Commission and interested media-oriented public interest groups.

6. Telecasters shall develop programming designed to educate and inform children about the implications and effects of violence, violent behavior, and the effects of exposure to television violence. Telecasters shall also conduct or sponsor activities designed to enhance the value of such programming.

7. The Commission will convene hearings and solicit public comment on the issue of televised violence, after which the Commission will promulgate guidelines on programming containing dramatized violence telecast between the hours of 6:00 a.m. and 10:00 p.m., which guidelines shall provide telecasters with a clear understanding of their responsibilities.

A. The Case for Regulating Televised Violence Has Become Compelling Since the Commission's Initial Decision in the 1970's to Tentatively Rely on Industry Self-Regulation.

51. The reasons the Commission declined to regulate

televised violence when it first considered the issue in the 1970's are no longer valid. In 1972, in its Corey ruling, the Commission declined to act on a complaint about violence in children's programming because the Commission considered the effects of televised violence on children still unknown.⁹⁷ However, since Corey the harmful effects of televised violence on children have become well-known in the scientific community.⁹⁸ In light of the evidence now available, the Commission should reconsider its twenty year-old reasoning.

52. In its 1975 Report on the Broadcast of Violent, Indecent, and Obscene Material, the Commission declared, "Regulatory action to limit violent and sexually-oriented programming which is neither obscene nor indecent is less desirable than effective self-regulation, since government-imposed limitations raise sensitive First Amendment problems."⁹⁹ Note that this argument assumed industry self-regulation would be effective. In the same Report, the Commission referred to guidelines then recently proposed by the National Association of Broadcasters (NAB) as "going a long way toward establishing appropriate protections for children from violent and sexually-oriented material."¹⁰⁰ The Report continues in the same overly-optimistic fashion,

⁹⁷In Re Corey, 37 F.C.C.2d 641, 642, 644 (1972).

⁹⁸See, e.g., Am. Acad. of Pediatrics, Comm. on Communications, Children, Adolescents, and Television, 85 Pediatrics 1119-20 (1990).

⁹⁹51 F.C.C.2d 418, 420 (1975); and see Part III hereof supra.

¹⁰⁰Id. at 422.

"This new commitment suggests that the broadcast industry is prepared to regulate itself in a fashion that will obviate any need for government regulation in this sensitive area."¹⁰¹ However, as many recent studies show, the need for governmental action to regulate televised violence is, if anything, even greater today than in 1975.¹⁰²

53. An agreement on televised violence announced by ABC, CBS and NBC in December of 1992 should not be cause for false optimism similar to that entertained by the Commission in 1975.¹⁰³ On June 21, 1990, the NAB announced that it had "approved a statement of principles for radio and television broadcasting that addresses four key areas: children's TV, indecency and obscenity, violence, and drugs and substance abuse."¹⁰⁴ This "Statement of Principles" reads in part as follows:

SPECIAL PROGRAM PRINCIPLES

1. Violence.

Violence, physical or psychological, should only be portrayed in a responsible manner and should not be used exploitatively. Where consistent with the creative intent, programs involving violence should present the consequences of violence to its victims and perpetrators.

Presentation of the details of violence should avoid the excessive, the gratuitous and the instructional. The use of violence for its own

¹⁰¹Id.

¹⁰²See G. Gerbner & N. Signorielli, Violence Profile 1967 Through 1988-89: Enduring Patterns (1990); Neil Hickey, How Much Violence?, 40 TV Guide No. 34, 10 (1992).

¹⁰³See TV Networks Set Standards on Violence, Boston Globe, Dec. 12, 1992.

¹⁰⁴Nat'l Assoc. of Broadcasters, 88/90 News at 1 (June 21, 1990).

sake and the detailed dwelling upon brutality or physical agony, by sight or by sound, should be avoided.

Particular care should be exercised where children are involved in the depiction of violent behavior.¹⁰⁵

More than two years later, the NAB's approval of this statement of principles has failed to have an effect on the amount of violence in television programming. Similarly, the National Cable Television Association (NCTA) recently adopted an "Industry Policy Statement" promising to discourage gratuitous violence in cable television programming.¹⁰⁶ This "Industry Policy Statement" has proven as ineffective as the NAB's voluntary measures. As is evident from the results of numerous recent studies on television programming such as those referred to supra, or even from casual observation of today's typical programming, this sort of voluntary regulation does not work. Due to the television industry's failure to effectively regulate itself, governmental action has become necessary to protect children from the harmful amounts of violence all too common in today's television programs.

54. The Commission cited its 1975 Report in its 1975 Memorandum Opinion and Order in Polite Society, in which it upheld a Broadcast Bureau ruling denying a request for a cease and desist order against television stations

¹⁰⁵Id. at 3-4.

¹⁰⁶Harry A. Jessell, Cable Promises to Curb Violence, Broadcasting, Feb. 1, 1993, p. 33.

presenting excessively violent programming.¹⁰⁷ In Polite Society the Commission reaffirmed its "policy of self-regulation with regard to programming of sex and violence."¹⁰⁸ Similarly, the Commission eventually dismissed the Petitioner's 1969 Petition for Rulemaking on televised violence (RM-1515) in keeping with its decision to rely on industry self-regulation.¹⁰⁹ This is a policy decision that the Commission should now reexamine in light of the presently overwhelming consensus in the scientific community that televised violence is harmful to children and in light of the failure of industry self-regulation.

55. In 1984 the Commission recognized, in a report on a proposed children's programming guideline that would have set quantitative educational programming requirements, that the Commission has broad authority to regulate children's television programming in the public interest.¹¹⁰ Still, the Commission continued to rely on industry self-regulation in this area as well:

The consistency of such a guideline with the Communications Act and the First Amendment has never been squarely ruled upon, but it seems clear

¹⁰⁷In re Polite Society, 55 F.C.C.2d 810, 811 (1975).

¹⁰⁸Id. at 812.

¹⁰⁹See In the Matter of Council on Children, Media, and Merchandising On Request for Inspection of Records, 71 F.C.C.2d 44, 47 (1979) (referring to "recommendations as to the disposition of RM-1515 and RM-2140, rulemakings on televised violence," in "Handwritten note dated April 14, 1976, from Karen Hartenberger to Wallace Johnson," et al.); FCC, Report on the Broadcast of Violent, Indecent, and Obscene Material, 51 F.C.C.2d 418, 419 and 419 at n. 4 (1975); see also In Re Petition by the Foundation to Improve Television Concerning Violence on Television, 25 F.C.C.2d 830 (1970).

¹¹⁰In re Children's Television Programming and Advertising Practices, 96 F.C.C.2d 634 (1984).

that a children's programming guideline would pass legal muster. It is hornbook law that the Commission's authority to promulgate rules, guidelines and policies is extremely broad, and that this expansive regulatory charter empowers the FCC to promulgate content-related requirements. Whether to adopt quantitative guidelines is a policy judgment within the FCC's discretion. The Commission's authority to adopt general guidelines governing children's television programming has previously been upheld, as has its power to single out such programming as a preferred category. In short, nothing in the Communications Act expressly prevents the Commission from promulgating a guideline for children's programming so long as it rationally furthers the public interest Nevertheless, the majority jettisons even a general requirement that children's educational programming be aired.¹¹¹

The Commission issued rules imposing limits on commercials and requirements for educational and informational programming in children's television programming only after Congress required it to do so by enacting the Children's Television Act of 1990.¹¹² The Commission should not wait for Congress to end its inaction on televised violence while children are being harmed every day that violence on television goes unchecked.

56. The overwhelming consensus in the scientific community that televised violence is harmful to children and the manifest failure of industry self-regulation are not the only developments since the early 1970's that suggest the Commission should regulate programming that contains an excessive amount of dramatized violence. Changes in legislation and case law over the last twenty years indicate

¹¹¹Id. at 669-71.

¹¹²Children's Television Act of 1990, Pub. L. No. 101-437, 104 Stat. 996 (1990); 47 C.F.R. § 73.670-71 (1991).

that the Commission can now protect children from televised violence without fear of violating either § 326 of the Communications Act of 1934 or the First Amendment to the Constitution. These legal changes should prompt the Commission to reconsider its policy of non-regulation and issue the proposed Rules.

B. The Commission's Duty to Uphold the Public Interest Requires the Commission to Protect Children from Televised Violence.

57. The Commission's authority to issue regulations under the public interest standard is very broad. Under the Communications Act of 1934, the Commission is required to ensure that the "public interest, convenience, or necessity" is served by the exercise of its licensing power.¹¹³ As further explained by the Supreme Court, this duty is of utmost importance and subject to broad interpretation: "There is no doubt that the main function of the Commission is to safeguard the public interest in the broadcasting activities of members of the industry."¹¹⁴ Under 47 U.S.C. § 303(r), the Commission has the power to "make such rules and regulations and prescribe such restrictions and conditions, not inconsistent with law, as may be necessary to carry out the provisions of" the Communications Act as the "public

¹¹³Nat'l Broadcasting Co. v. United States, 319 U.S. 190, 215 (1943) (citing §§ 307(a)(d), 309(a), 310, and 312 of the Communications Act of 1934).

¹¹⁴Nat'l Cable Television Ass'n v. United States, 415 U.S. 336 (1974); see also FCC v. Pottsville Broadcasting Co., 309 U.S. 134, 137-38 (1940); WOKO, Inc. v. FCC, 109 F.2d 665 (1939).

convenience, interest, or necessity requires."¹¹⁵

Additionally, as the Court of Appeals explained in United Video,

The Commission's power under § 303(r) is broad. Even before the 1984 Cable Act, which explicitly gave the Commission power over cable television, the Commission's § 303(r) powers had already been held to permit it to order a cable television station not to carry the signal of a broadcast station outside the broadcast station's primary market.¹¹⁶

The Commission itself recognized in 1984 that its power to regulate television in the public interest "is extremely broad," and its "expansive regulatory charter empowers the FCC" to regulate "children's television programming."¹¹⁷

While the proposed Rules do not concern only children's programming, they are primarily designed to serve the same end as other regulations targeted more specifically at children's programming such as 47 CFR § 73.671, namely, the welfare of children in the television audience. As noted by the Commission in 1985, "children watch a substantial amount of television that is not specifically programmed to meet their needs or interests."¹¹⁸ The Petitioner submits that the public interest requires regulating violence in programming not targeted at children and that the Commission has the authority to issue the proposed Rules under the

¹¹⁵United Video, Inc. v. FCC, 890 F.2d 1173, 1182-83 (D.C. Cir. 1989).

¹¹⁶Id. at 1183. See also United States v. Southwestern Cable Co., 392 U.S. 157 (1968).

¹¹⁷96 F.C.C.2d 634, 669-71 (1984).

¹¹⁸In the Matter of Petition for Rulemaking Pertaining to a Children's Advertising Detector Signal, 100 F.C.C.2d 163, 168 (1985).

public interest standard. The Commission is empowered to issue Rule 6, which concerns educational and informational programming, by the Children's Television Act of 1990 as well. As noted elsewhere herein, the Commission has previously recognized that it has the power to regulate televised violence, but has not done so because of now inapplicable First Amendment concerns.

58. The Commission's responsibility to regulate television in the public interest extends to cable as well as broadcast television.¹¹⁹ This responsibility to the public interest even requires the Commission to ensure that broadcasting relayed by communication satellites serves the public interest.¹²⁰ Accordingly, the proposed Rules are designed to protect children from television programs containing an excessive amount of dramatized violence transmitted by any of the methods of telecasting over which the Commission has authority. Opponents of cable regulation may attempt to argue that the Commission is prohibited from regulating excessively violent programming on cable television by 47 U.S.C. §544(f)(1) which reads, "Any Federal agency, State, or franchising authority may not impose requirements regarding the provision or content of cable services, except as expressly provided by this subchapter." However, § 544(f) does not prohibit regulations that are

¹¹⁹United States v. Midwest Video Corp., 406 U.S. 649, 670-71 (1971).

¹²⁰Wold Communications, Inc. v. FCC, 735 F.2d 1465, 1475 (D.C. Cir. 1984).

content-neutral for First Amendment purposes.¹²¹ As explained infra, the Rules proposed by the Petitioner are content-neutral under current First Amendment case law because they are justified by the government's interest in preventing harm to children rather than by the government's disagreement with any messages being conveyed by programs containing dramatized violence.¹²² Thus, § 544(f)(1) is not an obstacle to the Commission's issuing the proposed Rules.

59. Cable industry representatives may also argue that cable television should not be regulated to protect children from violent programming, on the dubious ground that cable programming is somehow different from broadcast programming because viewers subscribe to cable programming but not to broadcast programming. A moment's reflection will reveal the flaws in this argument. The differences in the means by which the two kinds of programming are paid for and brought into the home are irrelevant for purposes of the most persuasive argument for regulating indecent or excessively violent programming: both are potentially harmful to children and governmental regulation is the only effective way to ensure that children are not harmed by either. In Pacifica the Supreme Court reasoned that the Commission could protect children from indecent radio programming because radio programming is pervasive in our society and

¹²¹United Video, Inc. v. FCC, 890 F.2d 1173 (D.C. Cir. 1989).

¹²²See Ward v. Rock Against Racism, 491 U.S. 781, 791 (1989) (citing Clark v. Community for Creative Nonviolence, 468 U.S. 288, 295 (1984)).

parents are unable to ensure that their children are not exposed to objectionable material.¹²³

60. The regulation upheld in Pacifica was issued pursuant to both 18 U.S.C. § 1464's prohibition on indecency and the public interest standard.¹²⁴ While cable programming must be invited into the home by subscribing to a cable service, radio programming must be invited into the home by buying a radio. In both cases the recipient must take affirmative steps and incur costs to receive the programming. Additionally, parents are currently as incapable of predicting in advance the amount of violence in cable programs as they are of predicting the number of "dirty words" in radio programs. Furthermore, children are likely to watch television without supervision just as they are likely to listen to radio programs without supervision.¹²⁵ The viewer advisories, visual warning signals, and classification standards provided for by the proposed Rules would help parents predict in advance the amount of violence in programming their children might watch. Still, restrictions on the amount of violence in television programming are necessary because parents cannot be expected to constantly monitor their children's television viewing.

¹²³FCC v. Pacifica Foundation, 438 U.S. 726, 841 (1978) (the regulation upheld in Pacifica was issued by the Commission pursuant to both 18 U.S.C. § 1464 and 47 U.S.C. § 303(g)).

¹²⁴Id.

¹²⁵See Nat'l Coalition on Television Violence, 13, No. 1-4, Nat'l Coalition on Television Violence News 9 (1992).

61. Since the Commission initially declined to regulate televised violence in the 1970's, the evidence has become overwhelming that violent television programming is a serious social problem, particularly with regard to children. As made clear by the alarming research results, findings, and statistics such as those referred to supra, regulating excessively violent television programming during children's viewing hours is in the public interest. Two recent acts of Congress designed to improve children's television programming and mitigate the effects of televised violence suggest that industry self-regulation has been inadequate to protect children's interests. The Children's Television Act of 1990 imposed quantitative limits on advertising in children's programming and required consideration of service to "the educational and informational needs of children" in licensing proceedings.¹²⁶ The Television Program Improvement Act of 1990 granted a three-year exemption from antitrust laws to "persons in the television industry" for collaborating on "developing and disseminating voluntary guidelines designed to alleviate the negative impact of violence in telecast material."¹²⁷ If industry self-regulation were sufficient to safeguard children's interest in healthy television programming, these acts would have been unnecessary.

¹²⁶Children's Television Act of 1990, Pub. L. No. 101-437, 104 Stat. 996-97, §§ 102, 103(a) (1990).

¹²⁷Television Program Improvement Act of 1990, Pub. L. No. 101-650, 104 Stat. 5127, § 501(c) (1990).

62. Pursuant to the Children's Television Act of 1990, the Commission issued regulations concerning "commercial limits in children's programs" and "educational and informational programming for children" in 1991.¹²⁸ Section 73.671 defines "educational and informational television programming" as "any television programming which furthers the positive development of children 16 years of age and under in any respect, including the child's intellectual/cognitive or social/emotional needs."¹²⁹ Still, however beneficial this sort of general attention to the needs of child television viewers may be, children continue to be harmed by televised violence. Encouraging the television industry to offer generally beneficial programming will not solve the problem of televised violence or undo the harm already done and currently being done to children. 47 CFR § 73.671, issued pursuant to the Children's Television Act of 1990, is an inadequate means of requiring beneficial programming that would specifically help to alleviate the harm done by televised violence. Rule 6 of the Petitioner's proposed Rules would require telecasters to provide some educational and informational programming specifically designed to address the problem of televised violence. It is worth noting here that the Children's Television Act assumes that the Commission has the authority to issue quantitative advertising limitations for cable as well as

¹²⁸47 C.F.R. §§ 73.670, 73.671 (1991).

¹²⁹47 C.F.R. § 73.671 (1991).

broadcast television: "As used in this section, the term 'commercial television broadcast licensee' includes a cable operator, as defined in section 602 of the Communications Act of 1934 (47 U.S.C. 522)."¹³⁰

63. The television industry's failure to take meaningful action under the antitrust exemption granted by the Television Program Improvement Act is but one more indication of the ineffectiveness of industry self-regulation. Last year, Senator Paul Simon of Illinois, the sponsor of the Act, had the following to say about the industry's response to the exemption:

First of all, it is interesting that we had the resistance at least privately, if not publicly, of most of the television industry, not all of it, to even having an exemption from the antitrust laws. . . . I think it is worthwhile asking what has happened. . . . The honest answer is not very much. The National Association of Broadcasters hosted a meeting in which its statement of principles were distributed. The three networks have pledged to get together to compare standards. The meeting was to have occurred in April. It has now been postponed until July. They are inching forward, but I am not sure, candidly, whether they are just making motions so it looks like they are doing something so we do not pay any attention in Congress to what is occurring.¹³¹

An agreement announced in December of 1992 by ABC, CBS, and NBC supposedly sets standards for violence in programming for the three networks, but this agreement has yet to produce results, and the industry's track record strongly suggests that it will not reduce the amount of violence in

¹³⁰See Children's Television Act of 1990 at § 102(d).

¹³¹138 Cong. Rec. S9172 (daily ed. June 30, 1992).

television programming.¹³² The same is true of the NAB's 1990 voluntary programming principles and the NCTA's 1993 policy statement.¹³³ The television industry's continuing failure to voluntarily reduce the amount of violence on television, in spite of its repeated assurances that it intends to do so, indicates that regulatory action by the Commission is necessary. The 1993 February sweeps period only confirms the need for such action.

64. The Commission cannot continue to entrust the protection of children's interests, and by extension the public interest, to the television industry and marketplace checks and balances. Industry self-regulation has manifestly failed to "obviate any need for government regulation," as the Commission hoped it would in 1975.¹³⁴ In light of this failure, the Commission appears to be neglecting its regulatory duties with its continuing inaction on the problem of televised violence. In 1984 the Court of Appeals held, in Wold Communications, that "the public interest touchstone of the Communications Act" permits the Commission to "allow the marketplace to substitute for direct Commission regulation" with respect to satellite transponder sale applications.¹³⁵ However, the

¹³²See TV Networks Set Standards on Violence, Boston Globe, Dec. 12, 1992.

¹³³See Nat'l Assoc. of Broadcasters, 88/90 News at 1 (June 21, 1990); H. Jessell, Cable Promises to Curb Violence, Broadcasting, Feb. 1, 1993, p. 33.

¹³⁴See 1975 Report, 51 F.C.C.2d at 422.

¹³⁵Wold Communications, 735 F.2d at 1475-76.

court emphasized that its holding was based on the assumption that the Commission had "not foresworn regulation or slighted its obligation to forecast where the public interest lies, and it stands ready to alter its course if future developments indicate that the public interest is not advanced by its decision."¹³⁶ The Commission's initial position on regulating televised violence is now twenty years old, and developments both in research on the effects of televised violence and in First Amendment case law suggest that this position should now be abandoned. With the Wold decision in mind, the Commission should take care not to abandon the public interest altogether by failing to reconsider the position on televised violence it tentatively adopted in the 1970's.

65. The numerous studies on the effects of televised violence discussed supra and the failure of industry self-regulation require the Commission to take decisive action. Restrictions on violent programming must be enforced, and some educational and informational requirements must be targeted at televised violence. The Commission should recognize that the television industry has failed to regulate itself with respect to violent programming and end its now untenable reliance on self-regulation.

C. The Commission Should Issue the Proposed Rules to Protect the Fifth Amendment Right of Children to be Free from Mental

¹³⁶Id. at 1475.

Harm Caused by Exposure to Excessive
Dramatized Violence on Television.

66. In 1969 the Petitioner, in an earlier Petition for Rulemaking concerning televised violence, argued that the Fifth Amendment's protection of children's liberty interest in being free from mental harm required the Commission to regulate violence in television broadcasts.¹³⁷ That earlier Petition was eventually dismissed by the Commission as it settled into its policy of relying on industry self-regulation in the mid-1970's. In 1972 this Fifth Amendment argument was made again before the Court of Appeals in Maguire v. Post Newsweek Stations.¹³⁸ "Without reaching the merits" of the Fifth Amendment argument, the Court of Appeals affirmed the judgment of the court below that had "dismissed the suit for failure to exhaust available administrative remedies."¹³⁹ However, the Court of Appeals also noted, "Should appellants remain dissatisfied with the [Federal Communication] Commission's disposition of their complaint, or should the Commission unreasonably delay action on it . . . this court stands ready to vindicate the constitutional and statutory rights of the parties."¹⁴⁰

67. The Fifth Amendment provides that "No person shall . . . be deprived of life, liberty, or property without due

¹³⁷Found. to Improve Television, Petition for Rulemaking, RM-1515 at 42-43 (filed with the FCC Oct. 7, 1969, dismissed several years later in favor of industry self-regulation).

¹³⁸Maguire v. Post Newsweek Stations, Capitol Area, Inc., 24 R.R.2d 2094 (D.C. Cir. 1972).

¹³⁹Id. at 2094-95.

¹⁴⁰Id. at 2095.

process of law," and § 151 of the Communications Act of 1934 provides that one of the paramount duties of the Commission is the "protection of life."¹⁴¹ The term "liberty" extends to the full range of individual conduct.¹⁴² It "embraces not only the right of a person to be free from physical restraint, but the right to be free in the enjoyment of [one's] faculties as well."¹⁴³ In Meyer v. Nebraska, the Supreme Court said,

Without doubt, [liberty] denotes not merely freedom from bodily restraint but also the right of the individual to contract, to engage in any of the common occupations of life, to acquire useful knowledge, to marry, establish a home and bring up children, to worship God according to the dictates of his own conscience, and generally to enjoy those privileges long recognized at common law as essential to the orderly pursuit of happiness by free men.¹⁴⁴

It is clear from the decisions referred to supra that the concept of "liberty" is given a broad meaning by the courts and embraces all forms of legitimate conduct. While no case has held that the right to be free from mental harm is included within the terms "life" and "liberty", it would be illogical to exclude it. One cannot very well engage in the pursuit of happiness with a mental imbalance brought about by years of exposure to television murder and mayhem.

68. As matters now stand, children have been and are being deprived of their right to be free from mental harm

¹⁴¹U.S. Const. amend. V; 47 U.S.C. § 151 (1988).

¹⁴²Bolling v. Sharpe, 347 U.S. 497 (1954).

¹⁴³Grosjean v. Am. Press Co., 297 U.S. 233 (1936).

¹⁴⁴Meyer v. Nebraska, 262 U.S. 390, 399 (1923).

without due process of law. Each time a television program containing an excessive amount of dramatized violence is received in our Nation's homes, youthful viewers receive another dose of emotional harm, with an accompanying degenerative effect to their mental processes. Their senses are dulled, and immunity to actual violence results. The Commission should act immediately to prevent any further such harm and the social ills that accompany it.

69. In FCC v. Pacifica Foundation, the Supreme Court recognized that one's First Amendment right to be left alone in one's own home "plainly outweighs the First Amendment rights of an intruder."¹⁴⁵ Additionally, the government's "substantial interest in protecting its citizens from unwelcome noise," is strongest in the context of protecting children from unwelcome noise in their own homes.¹⁴⁶ In Frisby the Court noted that it has "repeatedly held that individuals are not required to welcome unwanted speech into their own homes and that the government may protect this freedom."¹⁴⁷ Surely the right to be free from mental harm is as important as the right to be left alone. As the Fifth Circuit Court of Appeals explained,

The constitution protects not simply words but communication, which presupposes a speaker and a

¹⁴⁵Pacifica, 438 U.S. at 748(citing Rowan v. Post Office Dept., 397 U.S. 728 (1970)).

¹⁴⁶Id. at 491(citing Frisby v. Schultz, 487 U.S. 474, 484 (1988); Carey v. Brown, 447 U.S. 455, 471 (1980)).

¹⁴⁷Frisby, 487 U.S. at 484(citing Pacifica, 438 U.S. at 748-49, 759-60; Rowan v. Post Office Dept., 397 U.S. 728, 730 (1970); Kovacs v. Cooper, 336 U.S. 77, 86-87 (1949)).

listener, and circumscribes this protection for purposes which enhance the functioning of our republican form of government. The "rights" of the speaker are thus always tempered by a consideration of the rights of the audience and the public purpose served, or disserved, by his speech.¹⁴⁸

In Roe v. Wade the Supreme Court explained that the right to privacy extends to fundamental personal rights "implicit in the concept of ordered liberty."¹⁴⁹ The liberty interest in the enjoyment of one's faculties is such a fundamental personal right. The right to be free from mental harm is at least as important to ordered liberty as the right to be left alone in one's home. In Cox v. Louisiana, the Supreme Court declared,

The rights of free speech and assembly, while fundamental in our democratic society, still do not mean that everyone with opinions or beliefs to express may address a group at any public place or at any time. The constitutional guarantee of liberty implies the existence of an organized society maintaining public order, without which liberty itself would be lost in the excesses of anarchy.¹⁵⁰

Balancing liberty and free speech may be a delicate task if the speech involved is political or editorial, but portrayals of dramatized violence do not involve the same kind of First Amendment concerns.

70. The television industry's First Amendment interest in exposing children to dramatized violence is minimal at best. By themselves, acts of violence do not concern any

¹⁴⁸Martin v. Parrish, 805 F.2d 583, 584 (5th Cir. 1986).

¹⁴⁹Roe v. Wade, 410 U.S. 113, 152 (1973) (citing Palko v. Conn., 302 U.S. 319, 325 (1937)).

¹⁵⁰Cox v. Louisiana, 379 U.S. 536, 554 (1965).

particular issue or advocate any particular point of view, and they have little, if any, relevance to the free exchange of ideas, which the First Amendment is designed to protect.¹⁵¹ However, as many of the findings referred to supra suggest, excessive dramatized violence on television poses a serious threat not only to children's liberty interest in being free from mental harm, but liberty itself. Increased aggressiveness and desensitization to violence are two well-documented results of the mental harm caused by exposure to excessive dramatized violence.¹⁵² The riots in Los Angeles and elsewhere in the Summer of 1992 should serve as a warning of what may become of our liberty if violence continues to pervade our popular culture and our nation's youths continue to be exposed to violent television programming.

71. By failing to regulate the amount of dramatized violence shown on television in spite of its duty to regulate television in the public interest, the Commission is denying our nation's children their Fifth Amendment right to be free in the enjoyment of their faculties. As the Supreme Court has recognized, "Minors, as well as adults, are protected by the Constitution and possess constitutional

¹⁵¹See FCC v. League of Women Voters, 468 U.S. 364, 381 (1984).

¹⁵²See, e.g., Nat'l Inst. of Mental Health, Television and Behavior: Ten Years of Scientific Progress and Implications for the Eighties, (D. Pearl, L. Bouthilet & J. Lazar, eds 1982); Am. Psych. Ass'n, Big World, Small Screen, in Report of the American Psychological Association Task Force on Television and Society (1992).

rights."¹⁵³ The evidence referred to supra should be sufficient to establish that exposure to excessive televised violence can significantly impair children's enjoyment of their mental faculties. Any limited First Amendment free speech interest the television industry may have in exposing children to portrayals of dramatized violence is outweighed by children's Fifth Amendment liberty interest in being free from mental harm.

D. The Commission May Regulate the Transmittal of Televised Violence Without Violating § 326 of the Communications Act of 1934 or the First Amendment to the Constitution.

72. Even more than uncertainty about the effects of televised violence or hope that industry self-regulation would prove effective, fear of violating the First Amendment was behind the Commission's initial refusals to regulate not just televised violence, but programming for the benefit of children generally. In 1974 the Commission declined to adopt quantitative guidelines for educational children's programming because it considered children's programming "a sensitive First Amendment area."¹⁵⁴ However, this concern, although perhaps a valid reason for caution in the early 1970's, does not, particularly in light of subsequent developments in First Amendment case law, prevent the Commission from issuing the proposed Rules. One indication

¹⁵³Planned Parenthood v. Danforth, 428 U.S. 52, 74 (1976).

¹⁵⁴Children's Television Report and Policy Statement, 50 F.C.C.2d 1, 6 (1974).

that the Commission's fear of violating the First Amendment may have been unwarranted is that the Children's Television Act of 1990, which requires quantitative limits on commercial material shown during children's programming, has not been found to violate the First Amendment. The Petitioner's proposed Rules have been carefully drafted to restrict violent programming to the extent necessary in order to protect children without restricting programming that has not been shown to be harmful to children. The Rules are designed to balance any limited First Amendment interest the television industry might have in exposing children to excessive amounts of dramatized violence with the important competing social interests of protecting children from mental harm and alleviating societal problems stemming from that harm.

73. In 1975 the Commission reaffirmed the position it took on regulating televised violence in its 1972 Corey decision.¹⁵⁵ In its 1975 Report on the Broadcast of Violent, Indecent, and Obscene Material, the Commission concluded that it should not regulate televised violence because, in addition to hoping that self-regulation might prove adequate, the Commission thought "government-imposed limitations" on televised violence would "raise sensitive First Amendment problems."¹⁵⁶ In the same Report, the Commission explained that it considered its ability to

¹⁵⁵See In re Corey, 37 F.C.C.2d 641, 644 (1972).

¹⁵⁶51 F.C.C.2d 418, 420 (1975).

regulate televised violence, "by applying the public interest standard to programming," to be limited by the anti-censorship provision of § 326 of the Communications Act of 1934.¹⁵⁷ The Petitioner submits that regulating televised violence, which is well-documented as harmful to children, raises fewer First Amendment and censorship problems than regulating indecency in radio programming, which is not well-documented as harmful to children.¹⁵⁸

74. Later in 1975, the Commission, in Polite Society, denied an application for review of a ruling by the Commission's Broadcast Bureau that had denied a request for the Commission to require its licensees to justify violent programming.¹⁵⁹ The Commission cited its 1975 Report and noted that the Commission was guided "by past decisions distinguishing obscenity, indecency, and profanity from that material which is protected by Constitutional guarantees of freedom of speech and of the press."¹⁶⁰ As explained infra, these past decisions are no longer the best precedents upon which to base a well-considered position on regulating televised violence. The now overwhelming consensus in the scientific community that televised violence is harmful to children and the manifest failure of industry self-regulation undermine the assumptions upon which some of

¹⁵⁷Id. (citing Banzhaf v. FCC, 405 F.2d 1082, 1095 (D.C. Cir. 1976); Columbia Broadcasting v. Democratic Nat'l Comm., 412 U.S. 94 (1973)).

¹⁵⁸See Pacifica, 438 U.S. 726 (1978).

¹⁵⁹In re The Polite Society, 55 F.C.C.2d 810 (1975).

¹⁶⁰55 F.C.C.2d at 813.

these past decisions were based. Also, developments in free speech and media law since 1975 suggest that the Commission should reconsider its position on its ability to regulate televised violence under the First Amendment.

75. In response to congressional concern about violent television programming, the Commission, in a 1975 brief to the Seventh Circuit Court of Appeals, "emphasized that in relying on industry self-regulation to reduce the level of violence it expected to see concrete results or further governmental intervention, to the extent constitutionally permissible, would be necessary. (emphasis added)."¹⁶¹

Apparently, the Commission has in the past recognized that it has the authority to regulate television violence without violating the First Amendment. Unfortunately, this position, that the First Amendment would not prevent the Commission from regulating televised violence should industry self-regulation prove ineffective, has yet to be acted upon by the Commission. The failure of industry self-regulation should by now have prompted the Commission to act.

76. The Commission's conclusions about limitations on its ability to regulate televised violence may have been warranted in the early 1970's, but the case law implicating

¹⁶¹Writers Guild of America, W., Inc. v. FCC, 423 F. Supp. 1064, 1156 (C.D. Cal. 1976), vacated on other grounds, 609 F.2d 355 (9th Cir. 1979), cert. denied, 449 U.S. 824 (1980) (quoting Government Brief filed April 6, 1975, in The Polite Society, Inc v. FCC, No. 75-2044 (7th Cir. 1975), review denied, 541 F.2d 283 (7th Cir. 1976)).

that ability was much less encouraging then than it is today. A careful examination of the development of First Amendment jurisprudence since the 1970's suggests that the Commission's initial decisions on the subject now lack support. The Commission's initial analysis of the extent to which it is constrained by § 326 of the 1934 Communications Act is also outdated. In 1978 the Supreme Court, in FCC v. Pacifica Foundation, held that § 326 of the 1934 Communications Act "unequivocally denies the Commission any power to edit proposed broadcasts in advance . . . but this has never been construed to deny the Commission the power to review the content of completed broadcasts in the performance of its regulatory duties."¹⁶² Because the proposed Rules do not contemplate editing programs in advance of transmittal, they would not violate § 326's prohibition on censorship.

77. Pacifica is probably the most important precedent with respect to the constitutionality of the proposed Rules. In Pacifica the Supreme Court held that the Commission has the authority to sanction licensees for broadcasting constitutionally protected but indecent material "at times of the day when there is a reasonable risk that children may be in the audience."¹⁶³ The restrictions embodied in the proposed Rules are similar to the restriction upheld in

¹⁶²Pacifica, 438 U.S. at 735(citation omitted).

¹⁶³Id. at 732(citing the Commission's Declaratory Order below, 56 F.C.C.2d 94, 98 (1975)).

Pacifica. They differ only in that they apply to television rather than radio, and they are designed to protect children from material that is known to be harmful rather than from material that is more offensive than harmful. The Petitioner is not aware of any evidence demonstrating the harmfulness of vulgar language similar to the results of the studies discussed supra showing that televised violence harms children. Surely the government's interest in protecting children from excessive dramatized violence on television is at least as strong as its interest in protecting children from "dirty words" in radio programming.

78. In Ferber, which involved balancing free speech interests and the welfare of children, the Supreme Court held that is "evident beyond the need for elaboration that a State's interest in 'safeguarding the physical and psychological well-being of a minor,' is compelling."¹⁶⁴ Additionally, the Court noted in Ferber that it has "sustained legislation aimed at protecting the physical and emotional well-being of youth even when the laws have operated in the sensitive area of constitutionally protected rights."¹⁶⁵ Although the proposed Rules may also operate "in the sensitive area of constitutionally protected rights," they serve the compelling governmental interest in protecting the well-being of minors. The results of

¹⁶⁴New York v. Ferber, 458 U.S. 755, 757 (quoting Globe Newspaper Co. v. Superior Court, 457 U.S. 596, 607 (1982)).

¹⁶⁵Id.

scientific studies and the findings of medical authorities cited supra should be sufficient to establish the threat posed to children's well-being by televised violence.

79. Pacifica is part of a well-established tradition of recognizing less expansive First Amendment protection for the electronic media than for other forms of speech. As the Court noted in League of Women Voters, "[T]he broadcasting industry plainly operates under restraints not imposed upon other media" ¹⁶⁶ In the same case, the Court described Pacifica as "consistent with the approach taken in [the Court's] other broadcast cases." ¹⁶⁷ As noted in an article printed in the Yale Journal on Regulation in 1988, "From 1927 to the present day, only once has the Supreme Court held any regulation of broadcast content unconstitutional. That one case was FCC v. League of Women Voters, which invalidated a prohibition on editorializing by public stations that receive federal funds." ¹⁶⁸ The article continues to note that the Supreme Court considers it a "fundamental proposition" that "there is no unbridgeable First Amendment right to broadcast comparable to the right of every individual to speak, write, or publish." ¹⁶⁹

¹⁶⁶FCC v. League of Women Voters, 468 U.S. 364, 380 (1984).

¹⁶⁷Id. at 380, n. 13.

¹⁶⁸Dyk, Full First Amendment Rights for Broadcasters: The Industry as Eliza on Ice and Congress as the Friendly Overseer, 5 Yale Journal on Regulation 299, 308 (1988) (citing League of Women Voters, 468 U.S. 364 (1984)).

¹⁶⁹FCC v. Nat'l Citizen's Comm. for Broadcasting, 436 U.S. 775, (1978) (citing Red Lion Broadcasting Co. v. FCC, 395 U.S. 367, 388 (1969)).

80. The restraint on editorializing in League of Women Voters was unconstitutional because it did not satisfy the requirements established by the Court's prior broadcasting decisions.¹⁷⁰ As explained by the Court, restrictions on broadcasting will be upheld if they are "narrowly tailored to further a substantial governmental interest," (citations omitted) and deciding whether a restriction meets this test "requires a critical examination of the interests of the public and broadcasters in light of the particular circumstances of each case."¹⁷¹ While the restriction in League of Women Voters concerned "a form of speech -- namely, the expression of editorial opinion -- that lies at the heart of First Amendment protection,"¹⁷² the proposed Rules do not. Depictions of dramatized violence surely lie at the periphery of the area of speech protected by the First Amendment, if not outside it. The Supreme Court noted in Red Lion, "It is the purpose of the First Amendment to preserve an uninhibited marketplace of ideas"¹⁷³ The Petitioner submits that excessive amounts of dramatized violence on television contributes very little of value to the marketplace of ideas. If anything, violent programming detracts from the free exchange of ideas by teaching children to solve their disagreements through fighting

¹⁷⁰League of Women Voters, 468 U.S. at 381.

¹⁷¹Id. at 380-81 (citing Pacifica).

¹⁷²Id. at 381.

¹⁷³Red Lion Broadcasting Co. v. FCC, 395 U.S. 367, 390 (1968); see also Brennan, The Supreme Court and the Meiklejohn Interpretation of the First Amendment, 79 Harv. L. Rev. 1 (1965).

rather than through rational discussion. As further explained infa, the proposed Rules are permissible restrictions on broadcast television under the standard articulated in League of Women Voters. Cable television may warrant a slightly different analysis under existing case law, but the proposed Rules are permissible as applied to cable television as well. The few restrictions on cable programming that have been found to violate the First Amendment were all unconstitutionally overbroad, unconstitutionally vague, not designed to protect children, or lacking provisions for a "safe harbor period" for the programming involved.¹⁷⁴ However, none of the Rules proposed by the Petitioner suffer from such infirmities.

81. The restrictions the proposed Rules would impose on cable television would be permissible under current First Amendment doctrine. The "precise degree of first amendment protection enjoyed by cable operators" has not been definitely established.¹⁷⁵ However, the Court of Appeals, in striking down "must carry" rules, has applied the O'Brien test "of a substantial governmental interest furthered by means no greater than are essential to the furtherance of

¹⁷⁴See Home Box Office v. Wilkinson, 531 F. Supp. 987 (D. Utah 1982); Community Television of Utah, Inc. v. Roy City, 555 F. Supp. 125 (S.D. Fla. 1983), aff'd, 755 F.2d 1415 (11th Cir. 1985); Community Television of Utah, Inc. v. Wilkinson, 611 F. Supp. 1099 (D.C. Utah 1985), aff'd sub. nom. Jones v. Wilkinson, 800 F.2d 989 (10th Cir. 1986), aff'd 480 U.S. 926 (1987).

¹⁷⁵Century Communications Corp. v. FCC, 835 F.2d 292, 295 (D.C. Cir. 1987), clarified, 837 F.2d 517 (D.C. Cir.), cert. denied, 486 U.S. 1032 (1988).

that interest," as a First Amendment standard for regulations on cable television.¹⁷⁶ In O'Brien, which involved a protestor burning a draft card as a political statement, the Supreme Court held that a governmental regulation that incidentally burdens First Amendment rights "is sufficiently justified if it furthers an important or substantial governmental interest . . . unrelated to the suppression of free expression; and if the incidental restriction on alleged First Amendment freedoms is no greater than is essential for the furtherance of that interest."¹⁷⁷ A programming regulation permissible under the "narrowly tailored to further a substantial governmental interest" standard applicable to broadcasting regulations would also be permissible under the "essential to the furtherance of an important or substantial governmental interest" applicable to cable regulations if the purpose of the regulation could not be achieved absent the regulation. To protect children from televised violence, the proposed Rules should be applied to cable television as well as broadcast television.

82. As discussed supra, the television industry has proven incapable of regulating itself with respect to televised violence. Cable industry representatives might argue that regulating violent cable programming is not

¹⁷⁶Century Communications, 835 F.2d at 295. See also Quincy Cable TV, Inc. v. FCC, 768 F.2d 1434 (D.C. Cir. 1985), cert. denied sub. nom. Nat'l Assoc. of Broadcasters v. Quincy Cable TV, Inc., 476 U.S. 1169).

¹⁷⁷United States v. O'Brien, 391 U.S. 367, 377 (1968).

essential to protect children on the theory that "lock boxes" or other devices provide adequate safeguards. The weakness of this argument is apparent from the continuing exposure of children to violent cable programming in spite of the current availability of "lock boxes" and other hardware and software designed to limit children's access to cable programming. Even if lock boxes are adequate safeguards against children being exposed to obscene or indecent programming, violent programming presents a different problem because it is currently more common in programming that targets children, as well as more likely to be found in many different types of programming and at more various times of day, than obscene or indecent programming. Such technological "fixes" represent only added expense for the cable consumer, and they do not adequately protect children from the pervasive problem of televised violence. Parents should not be required to pay extra for equipment to protect their children from harmful programming material injected into a service for which they may already be paying too much. Two important factors in the Supreme Court's rationale in Pacifica for upholding the Commission's regulation of indecent radio broadcasting were "the broadcast media have established a uniquely pervasive presence in the lives of all Americans," and "broadcasting is uniquely accessible to children, even those too young to

read."¹⁷⁸ The same is true of cable television. Lock boxes and other similar means of restricting children's access to harmful programming cannot reliably protect children from exposure to televised violence because parents cannot anticipate every act of violence portrayed in television programs, including those transmitted by cable. As the Pacifica court noted, "Because the broadcast audience is constantly tuning in and out, prior warnings cannot completely protect the listener or viewer from unexpected program content."¹⁷⁹ The same is true of the cable television audience. As with indecent language in radio broadcasting, the only way to protect children from excessive violence in cable television programming is for the Commission to restrict the programming at its source by issuing rules similar to those proposed herein.

83. Under current First Amendment case law, regulations on either broadcast or cable television programming must serve a "substantial" governmental interest.¹⁸⁰ The proposed Rules further a governmental interest that is at least "substantial." In explaining how the Children's Television Act of 1990 serves a "substantial interest," the House Committee on Energy and Commerce notes, "[I]t is difficult to think of an interest more substantial than the promotion of the welfare of children," and "it is

¹⁷⁸Pacifica, 438 U.S. at 748-49.

¹⁷⁹Id. at 748.

¹⁸⁰See League of Women Voters, 468 U.S. at 380; Century Communications, 835 F.2d at 295.

this interest which has justified "channeling" of other constitutionally-protected speech, such as "indecent" programming."¹⁸¹ The Committee also noted that promoting "the content-neutral and significant governmental interest in safeguarding the well-being of the nation's youth" is permissible under the First Amendment.¹⁸²

84. Still, there are those who argue that cable television should not be regulated to protect children from violent programming. According to our last President's justification for not signing the Children's Television Act of 1990, "the proliferation of new video services" has weakened the "scarcity of broadcast frequencies" justification for content-based programming regulation.¹⁸³ President Bush's argument continued, "Red Lion's technological scarcity" theory does not apply to cable service, which should be considered analogous to the print media under the First Amendment."¹⁸⁴ However, this argument is disingenuous at best because protecting children from harmful programming does not depend on a frequency scarcity rationale. Bush's argument misses the point of the Pacifica opinion, that some programming regulations may be justified not by frequency scarcity, but rather by the pervasive nature of the programming involved and the harm it causes

¹⁸¹H.R. Rep. No. 101-385, 101st Cong., 2d Sess., reprinted in 1990 U.S.C.C.A.N. 1609, 1616.

¹⁸²Id. (citing Renton v. Playtime Theatres, 475 U.S. 41 (1986)).

¹⁸³President's Statement on the Children's Television Act of 1990, 26 Wkly Comp. Pres. Doc. 1611, 1612 (Oct. 17, 1990) (explaining the President's disapproval of the Act).

¹⁸⁴Id. (citing Red Lion).

children.¹⁸⁵ The pervasiveness of violent cable television programming has reached a level that justifies concerns similar to those involved with indecent radio broadcasting. According to a recent finding by Congress,

There has been a substantial increase in the penetration of cable television systems over the past decade. Nearly 56,000,000 households, over 60 percent of the households with televisions, subscribe to cable television, and this percentage is almost certain to increase. As a result of this growth, the cable television industry has become a dominant nationwide video medium.¹⁸⁶

Applying the proposed Rules to cable television is justified not by frequency scarcity or a shortage of cable channels, but by the pervasiveness of violent cable programming and the harm it does to children.

85. The Commission stated that, out of all the reasons for issuing the restriction upheld in Pacifica, it was particularly concerned about children having unsupervised access to indecent material.¹⁸⁷ As the Commission recognized in its 1975 Report on the Broadcast of Violent, Indecent, and Obscene Material, "the intrusion of offensive matter into the home under circumstances where it is not expected and cannot always be monitored by adults is a matter of legitimate concern."¹⁸⁸ Cable television is similar to radio not only in terms of pervasiveness, but also in the fact that many children have access to both without adult

¹⁸⁵See Pacifica, 438 U.S. 726 (1978).

¹⁸⁶Cable Television Consumer Protection and Competition Act of 1992, Pub. L. No. 102-385, 106 Stat. 1460 (1992).

¹⁸⁷56 F.C.C.2d 94, 97 (declaratory order issued Feb. 21, 1975).

¹⁸⁸51 F.C.C.2d at 441.

supervision. Another similarity between the proposed Rules and the regulation upheld in Pacifica is that both do not flatly ban objectionable programming, but instead "channel" it so that children are not likely to be exposed to it.¹⁸⁹ This distinguishes the proposed Rules from other programming regulations that have been found to violate the First Amendment by failing to leave open a "safe harbor" period in which the programming they affected could be shown.¹⁹⁰

86. Whether or not different First Amendment standards for broadcasters and cable operators should be justified by frequency scarcity arguments, protecting children from harmful programming does not depend on a frequency scarcity rationale. As the Commission pointed out in Pacifica, two of the reasons broadcasting enjoys less freedom than other media are that children often have unsupervised access to broadcast material and such material is received "in the home, a place where people's privacy interest is entitled to extra deference."¹⁹¹ The same reasoning applies to cable television. The Pacifica court's justification of a special First Amendment standard to protect children from radio programming did not depend on the frequency scarcity argument made in Red Lion. The Pacifica court recognized, "The broadcast media have established a uniquely pervasive

¹⁸⁹Pacifica, 438 U.S. at 732-33 (citing 59 F.C.C.2d 892 (1976)).

¹⁹⁰See, e.g., Community Television v. Wilkinson, 611 F. Supp. 1099 (D.C. Utah 1985), aff'd, sub. nom. Jones v. Wilkinson, 800 F.2d 989 (10th Cir. 1986), aff'd 480 U.S. 926 (1987).

¹⁹¹Pacifica at 731, n. 2.

presence in the lives of all Americans," and the broadcast of offensive material infringes on the individual's right to be let alone in his own home, "which plainly outweighs the First Amendment rights of an intruder."¹⁹² As the Pacifica court noted, "[B]roadcasting is uniquely accessible to children," and it, unlike other forms of expression, cannot be "withheld from the young without restricting the expression at its source."¹⁹³ This reasoning applies to cable television as well as broadcast television because of the ineffectiveness of lock boxes and similar means of restricting children's access to violent cable programming as discussed supra. The pervasiveness and accessibility to children of violent cable programming, rather than some notion of channel scarcity, justify regulations to protect children from televised violence.

87. The proposed Rules do not contemplate a total ban on violence in television programming similar to the total ban on indecent commercial telephone communications held unconstitutional in Sable Communication.¹⁹⁴ There are also significant differences between dial-a-porn services and cable television. In Sable Communications the Supreme Court held that § 223(b) of the Communications Act of 1934, as amended in 1988, unconstitutionally restricted speech in part because the telephone communications in question were

¹⁹²Id. at 740 (citing Rowan v. Post Office Dept., 397 U.S. 728 (1970)).

¹⁹³Id. at 749.

¹⁹⁴Sable Communications v. FCC, 492 U.S. 115, 122-23 (1989).

not "uniquely pervasive" or uniquely accessible to children" as was the radio broadcast in Pacifica.¹⁹⁵ The proposed Rules are more like the radio regulation upheld in Pacifica than the dial-a-porn regulation struck down in Sable Communications. While children do not typically use dial-a-porn services, they do typically watch television at least as much as they listen to the radio. Also, the Sable Communications court noted, "Pacifica is readily distinguishable from this case most obviously because it did not involve a total ban on broadcasting indecent material."¹⁹⁶ Similarly, the proposed Rules do not contemplate a total ban on excessively violent programming, but rather a system of safeguards designed to protect children primarily by channelling such programming to times when children are not likely to be exposed to it. The proposed Rules would leave open a "safe harbor" period from 10:00 p.m. to 6:00 a.m., during which excessively violent programming could be transmitted.¹⁹⁷ An even narrower safe harbor period, from 12:00 a.m. to 6:00 a.m., part of a restriction on graphic anti-abortion advertisements imposed for "the protection of children from inappropriate broadcast material," was recently found sufficient for First Amendment purposes by a Federal Court.¹⁹⁸

¹⁹⁵Id. at 127.

¹⁹⁶Id.

¹⁹⁷See alternate versions of Petitioner's proposed Rule 1(a) supra at pp. 1-2, 32-33.

¹⁹⁸Gillett Communications of Atlanta Inc. v. Becker, 61 U.S.L.W. 2292 (N.D. Ga. Oct. 30, 1992) (No. 1:92-cv-2544-RHH).

88. The Commission should not be dissuaded from applying the reasoning of Pacifica to cable television in order to protect children from violent programming by the cable industry's argument that cable television should be treated analogously to print media for First Amendment purposes. As mentioned supra, Pacifica did not depend on a frequency scarcity rationale. Red Lion's technological scarcity rationale and other equal time considerations are irrelevant to the issues involved in protecting children from violent programming. As Senator Danforth's remarks on the Children's Television Act of 1990 in the Congressional Record explain, "Children do not distinguish between cable and over-the-air broadcasts when they watch television."¹⁹⁹ Cablecasts should be regulated similarly to over-the-air broadcasts because they have the same potential for harm to children. The right to be left alone in one's own home and the government's interest in protecting the welfare of children outweigh the limited free speech rights of cable companies as well as radio broadcasters.

89. Pacifica held that the Commission's authority to restrict non-obscene speech for the protection of children did not "by any means reduce adults to hearing only what is fit for children," under Butler, since adults who wanted to hear George Carlin's monologue could have purchased recordings of it, or the monologue could have been broadcast in the late evening when there were few children in the

¹⁹⁹136 Cong. Rec. S13552, S13555 (daily ed. Sept. 24, 1990).

listening audience.²⁰⁰ Pacifica extended to the broadcast media and to non-obscene expression Ginsberg's holding, that regulating expression in the print media, even expression that is protected as to adults, is justified by "the government's interest in the "well-being of its youth," and in supporting "parents' claim to authority in their own household" ²⁰¹ These reasons for regulating indecent radio programming apply all the more to broadcast and cable television programming containing an excessive amount of dramatized violence. They also cast additional doubt on any argument by the cable television industry to the effect that cable television should be exempt from the proposed Rules.

90. While, as discussed supra, cable television is not entitled to the same degree of First Amendment protection as that enjoyed by the print media, even if it were, the restrictions imposed by the proposed Rules would still be permissible under the First Amendment. A recent Supreme Court case, St. Paul, sets out current formulations of various exceptions to the First Amendment prohibition on abridging the freedom of speech. The St. Paul decision invalidated an ordinance proscribing "hate speech" because it prohibited "otherwise permitted speech solely on the basis of the subjects the speech addresses."²⁰² It is worth

²⁰⁰Pacifica, 438 U.S. at 750, n. 28(citing Butler v. Michigan, 352 U.S. 380, 383 (1957)).

²⁰¹Id. at 749-50(citing Ginsberg, 390 U.S. 629 (1967)).

²⁰²R.A.V. v. St. Paul, 60 U.S.L.W. 4667, 4672 (U.S. June 22, 1992) (No. 90-7675).

noting that the proposed Rules discriminate among television programs not on the basis of the subjects they address or the messages they convey, but on the amount of dramatized violence they contain. The amount of dramatized violence depicted in a television program is independent of the subject or message of that program. Under the proposed Rules, telecasters would be free to address any subject or convey any message: the only limitations on their programming would be those necessary to protect children from excessive dramatized violence, which is extraneous to the subject or message of programming.

91. The St. Paul majority notes that the Supreme Court has "long held, for example, that nonverbal expressive activity can be banned because of the action it entails, but not because of the ideas it expresses -- so burning a flag in violation of an ordinance against outdoors fires could be punishable, whereas burning a flag in violation of an ordinance against dishonoring the flag is not."²⁰³ This exception could apply to the proposed Rules because they restrict a nonverbal expressive activity, the broadcast or transmittal of television programs containing an excessive amount of dramatized violence, not because of any ideas expressed by the material containing the violence, but rather because of the action involved: showing excessively violent material on television at times children are likely

²⁰³St. Paul, 60 U.S.L.W. at 4669-70 (citations omitted).

to be in the viewing audience. Additionally, even if the proposed Rules were content-based rather than content-neutral for First Amendment Purposes, they would still be permissible because they are justified by reference to the "secondary effects" of excessively violent programming rather than by reference to any message conveyed by such programming.²⁰⁴ As explained in a recent Federal court decision, "The only exception that can permit some content-based regulations is the "secondary effects" test, which has often been employed to justify regulation of speech and expression on sexual topics."²⁰⁵ The Petitioner asks the Commission to issue the proposed Rules not because televised violence is offensive, but because its secondary effects are harmful.²⁰⁶ Under the secondary effects doctrine, the proposed Rules would be permissible under the First Amendment even if they were to be considered content-based rather than content-neutral.

92. Another category of First Amendment exceptions discussed in the St. Paul opinion, reasonable "time, place, or manner" restrictions, provides the most obvious basis for finding that the restrictions in the proposed Rules would not violate the First Amendment. Out of all the First

²⁰⁴See Id. at 4670 (citing Renton, 475 U.S. at 48; Young v. American Mini Theatres, Inc., 427 U.S. 50, 71, n. 34 (1976); Barnes v. Glen Theatre, 59 U.S.L.W. 4745, 4748 (June 21, 1991) (No. 90-26).

²⁰⁵Citizens United for Free Speech v. Long Beach Township Board of Commissioners, 802 F. Supp. 1223, 1233 (D.N.J. 1992) (citing Barnes, Renton and Young).

²⁰⁶See Young, 427 U.S. at 71, n. 34.

Amendment exceptions to be found in current case law, the programming restrictions contained in the Petitioner's proposed Rules are best classified as time, place and manner restrictions. The Court indicates that such restrictions are permissible if they are "justified without reference to the content of the regulated speech."²⁰⁷ The case cited for this proposition, Ward v. Rock Against Racism, upheld a municipal regulation of sound amplification at outdoor concerts as a reasonable time, place and manner restriction on protected speech.²⁰⁸

93. The Court granted certiorari in Ward "to clarify the legal standard applicable to governmental regulation of the time, place, or manner of protected speech."²⁰⁹ In Ward the Court stated: "The principal inquiry in determining content-neutrality, in speech cases generally and in time, place, or manner cases in particular, is whether the government has adopted a regulation of speech because of disagreement with the message it conveys."²¹⁰ The restrictions contained in the proposed Rules are time, place, and manner restrictions that do not discriminate among television programs on the basis of the messages they convey. Excessive violence does not convey a message with which the government agrees or disagrees, and the proposed

²⁰⁷St. Paul at 4670 (citing Ward v. Rock Against Racism, 491 U.S. 781, 791 (1989)).

²⁰⁸Ward v. Rock Against Racism, 491 U.S. 781, 803 (1989).

²⁰⁹Id. at 789.

²¹⁰Id. at 781 (citing Clark v. Community for Creative Nonviolence, 468 U.S. 288, 295 (1984)).

Rules are justified not by reference to any message conveyed by violent programming, but by that programming's potential for harm to children. As the Ward opinion explains, "The government's purpose is the controlling consideration," in deciding questions of content-neutrality.²¹¹ Because the purpose of the proposed Rules is to mitigate harm, rather than to favor or disfavor any particular point of view, the proposed Rules are content-neutral for First Amendment purposes. This is true even though violence might be considered "content" in the ordinary sense of the word as it is used outside the field of First Amendment jurisprudence. The amount of violence in television programming no more conveys a message or represents a particular point of view than does the volume level of an outdoor concert.

94. The proposed Rules are analogous to the regulation of music volume in Ward. The amount of dramatized violence in television programming is similar to the volume of amplified music in that the regulation of both is justified without reference to the message or viewpoint of the programs or music involved. This similarity suggests that the limitations contained in the proposed Rules would qualify as content-neutral time, place, or manner restrictions even if broadcasting or cable television were equivalent to print media for First Amendment purposes. The Ward decision also states that time, place, and manner

²¹¹Id.

regulations need not be analyzed under a least restrictive means test. As the Court explains, "Lest any confusion on the point remain, we reaffirm today that a regulation of the time, place, or manner of protected speech must be narrowly tailored to serve the government's legitimate, content-neutral interests, but that it need not be the least restrictive or least intrusive means of doing so."²¹²

95. Because the proposed Rules are time, place and manner regulations, the permissibility of their application to cable television should arguably be analyzed without reference to the "essential to the furtherance of an important or substantial governmental purpose" test of O'Brien that the Court of Appeals has applied to "must carry" rules, although they would pass that test as well.²¹³ Ward continues, "[T]he requirement of narrow tailoring is satisfied "so long as the . . . regulation promotes a substantial government interest that would be achieved less effectively absent the regulation."²¹⁴ Under this analysis, the proposed Rules satisfy the requirement of narrow tailoring. They promote the government's compelling, or at least substantial, interest in protecting children from excessive dramatized violence on television. As discussed supra, this interest would not merely be achieved less

²¹²Id. at 798(citations omitted).

²¹³See O'Brien, 391 U.S.at 377; Century Communications, 835 F.2d at 295.

²¹⁴Ward at 781(citing United States v. Albertini, 472 U.S. 675, 689 (1985)).

effectively absent the proposed Rules, it probably would not be achieved at all.

96. In 1979 a Federal court recognized that scientific evidence of the danger posed by televised violence might someday justify increased governmental regulation of television programming. The Zamora court denied recovery of tort damages from broadcasters for a murder committed by a boy who watched an extremely high amount of televised violence on the ground that imposing civil liability in such a case would violate the First Amendment.²¹⁵ However, the Zamora court also noted, "One day, medical or other sciences with or without the cooperation of programmers may convince the F.C.C. or the Courts that the delicate balance of First Amendment rights should be altered to permit some additional limitations in programming."²¹⁶ The scientific evidence discussed supra is exactly the type of evidence foreseen in 1979 by the Zamora court.

97. The Petitioner simply asks that the Commission acknowledge and act upon the extensive empirical evidence that televised violence is a serious problem. Excessive amounts of dramatized violence in television programming is at least as deserving of regulatory attention as indecent language in radio programming or excessively loud music at an outdoor concert. The fact that the television industry

²¹⁵Zamora v. Columbia Broadcasting Sys., 480 F. Supp. 199, 200-01, 206 (S.D. Fla. 1979).

²¹⁶Id. at 206-07.

has had over twenty years to reduce voluntarily the amount of violence on television to safe levels, and has yet to do more than issue statements and guidelines that are never followed, suggests that the time for appropriate regulatory action has finally arrived.

WHEREFORE, the Petitioner, the Foundation to Improve Television, respectfully requests that the Commission amend its Rules and Regulations to include the following new Section 73.____ or issue one or more rules similar to those contained therein.

RESPECTFULLY SUBMITTED this 25th day of March, 1993,

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TELEVISION AS A SOURCE OF MALTREATMENT OF CHILDREN

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ABSTRACT

Words and actions may embody psychological maltreatment of genuine destructive power. This destructive power can be expressed through the broadcast media, and particularly through television. Television influences attitudes and behaviors. Frequently the results are anti-social in nature. Heavy exposure to televised violence is one of the causes of aggressive behavior, crime, and violence in society. This article reviews the research findings which have established relations between television viewing and the subsequent attitudes and behaviors of viewers giving particular attention to the influences of televised violence. It concludes by identifying the implications and remedies for public policy, society and for the parents and educators responsible for the daily experiences of children.

Abuse of children, whether physical or psychological, can have a lasting effect on their emotional development, as is amply demonstrated in other contributions to this special issue. What is less well appreciated is that the broadcast media are also a source of abuse and can have as deleterious an effect on children's development as direct physical and psychological abuse by parents. A youngster's social development can be affected by continued exposure to certain kinds of media programming. These effects are not merely transient but can have a long lasting, malevolent influence on personality development. This review will be concerned with the effect of television on children's behavior, particularly on aggressive and prosocial behavior.

Television Violence and Behavior

That there is a consistent relation between TV violence viewing and subsequent aggressive behavior on the part of the viewer is no longer disputed; it has been demonstrated many times both in laboratory and in field investigations (Lefkowitz & Huesmann, 1980). Also, there is little doubt that this relation is primarily one of cause and effect. True, the relation is not a powerful one that explains a major portion of the variance. The correlations, however,

usually obtained are certainly as high as those found in any other research with personality variables, and the fact that the association holds up under a wide variety of experimental conditions and measurement operations increases confidence in the validity of the findings. The same is true for prosocial television and its relation to subsequent behaviors that we label as positive in society. There is little doubt that TV is an influential socializing agent and that viewing of TV affects all kinds of behavior on the part of the viewer. Those who developed TV for commercial purposes could have told us this a long time ago. Television executives, manufacturers, and merchandisers did not need our research to convince them. However, for some reason, these same individuals have consistently denied that there is any proved effect of programming on antisocial behavior, although they have never denied an effect on prosocial behavior.

Recently we have found (Huesmann, Eron, Dubow & Seebauer, in press) that television viewing habits measured in children related to aggressive behavior in adulthood. The extent of viewing violence on TV is significantly related to aggressive behavior not only concurrently but also at ages 19 and 30. The more violent the programs children watched at age 8, the more aggressive they were at age 19, as indicated

both by self-ratings and peer ratings: the more serious were the crimes for which they were convicted by age 30; the more aggressive was their behavior while under the influence of alcohol; and, most important for this discussion, the harsher was the punishment of their own children. These relations held up even when the subjects' initial aggressiveness, social class and IQ were controlled. Further, measurements of the subjects' own children showed that the subjects' aggressiveness and violence viewing at age 8 related to their children's aggressiveness and preferences for violence viewing 22 years later, when the subjects were 30 years old. These intergenerational relations between violence viewing and aggression are further testimony to the oft noted circumstance that abusing parents were themselves abused as children (Spinetta & Rigler, 1972).

It is not claimed that the specific programs these adults watched when they were 8 years old still had a direct effect on their behavior. However, the continued viewing of these programs probably contributed to the development of certain attitudes and norms of behavior and taught these youngsters ways of solving interpersonal problems which remained with them over the years. Observation of aggressive sequences on the television screen provided scripts which then were continually rehearsed and easily elicited when the subjects found themselves in situations bearing some resemblance to the ones observed on the screen.

This finding of a causal link between the watching of violent television and subsequent aggressive behavior in youngsters is not an isolated finding among a unique or nonrepresentative population in one area of the U.S., at a particular time. Seventeen years after our original data collection, we studied another large group of youngsters in a different geographical section of the U.S., following them for 3 years, and obtained essentially the same results (Huesmann, Lagerspetz & Eron, 1984). Further, this 3 year follow up was replicated in four other countries, Australia, Finland, Israel and Poland (Huesmann & Eron, 1986). The data from all five countries investigated in the study clearly indi-

cate that more aggressive children watch more television, prefer more violent programs, identify more with TV characters, and perceive violence as more like real life than do less aggressive children. There is substantial variation from country to country, but at least some TV variable relates to aggression in each country. Further, it is clear that the relation between TV habits and aggression is not limited to boys. In all but one instance the causal relation is bidirectional with aggressive children watching more violent television and the violent television making them more aggressive.

Singer and Singer (1981) followed a group of 3 and 4 year olds over the course of 1 year, measuring a number of variables at four different times and concluded that TV violence is a cause of increased aggressiveness even in children at that age. McCall, Parke and Kavanaugh (1977) demonstrated that children as young as 2 were facile at imitating televised behaviors and some imitation was observed in even younger children. Indeed some children are already attentive to television as early as 6 to 9 months of age (Hollenbeck & Slaby, 1979).

As for the upper end of this age range of susceptibility, we had argued earlier that once an individual had reached adolescence, behavioral predispositions and inhibitory controls would have become so crystallized that it would be difficult for television to influence patterns of characteristic behavior such as aggression (Eron, Huesmann, Lefkowitz & Walder 1972). However, more recently Belson (1978) collected data on 1650 teenage boys in London and concluded that "the evidence is very strongly supportive of the hypothesis that high exposure to television violence increases the degree to which boys engage in serious violence" (p. 15). Also another study of adolescents in the US found a significant though low correlation between violence viewing and aggressive behavior (Hartnagel, Teevan & McIntyre, 1975). Thus it seems likely that television violence is a cause of aggressive behavior over a wider age spectrum than previously suspected. By implication this would suggest that both children and adolescents are at

the mercy of what is presented to them on television. It is not only violence observed on TV that can affect behavior. Any kind of action, positive or negative, will have its effects.

Television and Attitudes

Our research into the effects of television violence on aggression (Huesmann & Eron, 1986) has indicated that there are two important variables which determine how much influence observation of TV characters will have on the subsequent behavior of the viewer. They are (a) the degree to which the individual feels the television portrayal is realistic and (b) the degree to which the observer identifies with the characters (i.e., how much the individual feels he or she is like or acts in the same way as the television character). The more true-to-life the observer believes television is and the more the observer feels he or she is similar to TV characters, the more aggressive is the individual and the more resistant to change as a function of any planned interventions (Huesmann, Eron, Klein, Brice & Fischer, 1983). Additionally, the younger the children are, the more real they believe television to be and the more they believe that they act like television characters. This is why it is so important that television not portray distortions of what life is really like and not perpetuate undesirable stereotypes in programming for children.

Unfortunately this is what has happened on television. In general television dramas portray people in such a simplified and inaccurate way that the characters are often crude stereotypes. Occupational roles and workers, women, minorities, the aged, single parents, the handicapped and various ethnic groups are quite commonly presented as stereotypes and given few individual characteristics. Development of central characters in the drama is quite limited — only those characteristics are highlighted which are necessary to the image of the hero or villain. For commercial spots, the push to concentrate on some salient attribute of the characters is even more limiting because the message must be packed into such a short span of time, rein-

forcing the distorted images, especially of women, minority group members and the work force. For example, working people on television bear little resemblance to the real population of workers (Greenberg, 1982). Nearly a third of the labor force on TV is engaged in professional occupations of relatively high social prestige, and another third is involved in law enforcement. Women are usually portrayed as supportive wives and mothers; if married, they rarely work outside the home; and if they do, their occupations are rarely prestigious. Most often they are depicted as silly, overemotional, and dependent on husbands and boyfriends. The authors of one study concluded that the general image in which women are portrayed is one of traditional sexism and that young people are not likely to gain insights into the new roles and perceptions that many women have of themselves or want for their daughters (Long & Simon, 1974).

Minority characters, despite some recent attempt at correction, are still portrayed according to old fashioned stereotypes. Asians still are shown as karate experts or cunning, inscrutable villains. Blacks are very often song and dance entertainers or buffoons in comedy shows and American Indians still are seen as alcoholics or fierce savages. These stereotyped depictions of minorities on TV are not helpful to minority children who are striving to achieve positive self images; nor do they help non-minority children and adults accept and understand minority persons and their strivings.

Early in the history of television research, it was believed that the main function of television for children was a source of fantasy and escape. However, children use television for more than escapism. It is their "window on the world" — from television they learn about society's norms, about how to behave and dress; they learn about people in different parts of the world and events in remote places, as well as what is taking place in their own neighborhoods. It is important, therefore, that the information they receive be reasonably accurate and not lead to distorted views of the world and increased prejudice. Gerbner and Gross (1976) have found a strong

association between patterns of network dramatic content and conceptions of social reality among children and adolescents. They concluded that television cultivated an exaggerated sense of danger and mistrust in steady viewers compared with those who watched television less frequently. The expectations about society among children who were heavy viewers had been grossly distorted by continued viewing. For example, children who watch a great deal of television are more likely to believe that the police frequently use force and that the average police officer will shoot fleeing suspects.

How Television Affects Children's Attitudes and Behavior

There no longer can be any doubt that television is an important socializing agent rivalling in its influence the roles of parents, peers, school and church. This puts a critical social responsibility in the hands of those who determine the content and form of what comes across the television screen, whether in commercial spots or more extended dramatic sequences. Television is a powerful instructor which can teach children both antisocial and prosocial ways of behaving and solving problems. Unfortunately in the past, there has been greater emphasis on antisocial than prosocial programming.

Children who are heavy viewers of television violence regularly observe characters behaving aggressively in order to solve interpersonal problems. To the extent that the children (particularly boys) identify with the aggressive characters, the children may encode in memory the aggressive solutions they observe. We hypothesize that social behavior is controlled to a great extent by cognitive scripts, schemas, and strategies that the child observes, stores in memory, and uses as a guide for behavior. The child who constantly is exposed to violence is more likely to develop and maintain cognitive scripts emphasizing aggressive solutions to social problems. These violent scenes also may stimulate aggressive fantasies in which the encoded aggressive scripts are rehearsed, making them more likely to be recalled and utilized in the

future. If the aggressive behaviors then are emitted in appropriate situations, the aggressive behaviors may be rewarded with desirable outcomes, making their future occurrence more likely. However, as the aggression becomes habitual, it eventually must interfere with both social and academic success. The more aggressive child becomes the less popular child and the poorer academic achiever in school. These academic and social failures may become frustrators, instigating more aggressive responses. In addition, however, the children who are less successful in school and less popular become the more regular television viewers. Perhaps, they can obtain the satisfactions vicariously from television that they are denied in school and in their social life. They also may be better able to justify their own previous aggression after seeing more aggression in the media. These less popular, less intellectually able children watch more television violence, identify more with TV characters, and believe that the violence they observe on television reflects real life. All these conditions promote the learning of new aggressive schemas from television and the reinforcement of old ones. Since the intellectual capacities of these children are more limited, the easy aggressive solutions they observe may be incorporated more readily into their behavioral repertoires. The heavy viewing isolates them from their peers and gives them less time to work toward academic success. The violence they see on television may reassure them that their own behavior is appropriate or teach them new coercive techniques, which they then attempt to use in their interactions with others. Thus, they behave more aggressively, which, in turn, makes them even less popular and drives them back to television. The cycle continues with aggression, academic failure, social failure, violence viewing, and fantasizing about aggression mutually facilitating each other.

As noted above, in our longitudinal study of aggression in which we followed the subjects for 22 years, we found that the amount of violence observed by youngsters at age 8 affected their behavior then as well as in subsequent years. However, there was

no relation between the amount of violence they viewed as an adult and how aggressive the subjects themselves were as adults (Eron et al., 1972). It was as if all the work had been done in the earlier period and that in adulthood viewing no longer had a permanent or long lasting effect on personalities and behavior. We hypothesized that there must be a sensitive period around age 8 when the developing child is especially susceptible to the messages received on the television screen. In fact, in a subsequent developmental study with children aged 6 to 10, we demonstrated that there is a convergence of developmental trends which makes the child around 8-years-old especially vulnerable to the effect of violent television (Eron, Huesmann, Brice, Fischer & Mermelstein, 1983). Two of these trends which were important, at least for American children, and which were independent of amount of violence viewed, were (a) that the amount of time spent viewing television each day increases up until age 8 and then starts to decrease and (b) that the belief that television is realistic declines sharply after age 8.

Since the amount of television viewed peaks at age 8 and since youngsters of that age still believe extensively that what they see on television is an accurate depiction of life, it is very likely that television has its greatest impact on children in this age range in a number of areas other than aggression and violence. Children in this age range are probably very susceptible to influence by commercial messages of all kinds because they lack the cognitive skills and life experiences necessary to evaluate messages as adequately as might an adult. This is the same period during which children begin to develop the ability to encode information into meaningful units spontaneously, to organize information in a meaningful fashion and to develop systematic retrieval strategies when faced with a memory task (Collins, 1982).

Prosocial Television Models and Behavior

Children do not learn only negative things from television. Fortunately they also can learn positive behaviors. For example, Pulkkinen in Finland (Pitkanen-

Pulkkinen, 1979) showed that aggressive behavior of 8-year-old boys could be reduced by watching filmed sequences depicting constructive solutions to conflicts that occur frequently in children's everyday life. Weigman, Baarda and Seydel (1982) reported a study in the Netherlands with children aged 4 to 6 comparing the effectiveness of prosocial and aggressive films in encouraging corresponding behaviors. The prosocial, aggressive and neutral films used in the study were carefully matched in terms of duration of explicit content. The researchers found that the prosocial film was more effective in eliciting prosocial behavior than the aggressive film was in encouraging aggressive behavior.

It also has been demonstrated in longitudinal field studies that children who learn and perform prosocial behaviors are not likely to engage in aggressive behavior (Eron & Huesmann, 1984a; Feshbach & Feshbach, 1969). Indeed it has been claimed by Eron and Huesmann (1984b) that the two types of behavior are incompatible with each other. Thus, children should be encouraged to watch programs that emphasize the prosocial behavior of the characters in the expectation that observing such behavior on the TV screen would encourage its subsequent evocation in real life. There have been a number of both laboratory and natural studies which have demonstrated that prosocial television sequences do indeed lead to subsequent prosocial behavior on the part of the observer. For reviews of these studies, see Eron and Huesmann (1984b) and Rushton (1982). Unfortunately the studies usually have demonstrated only short-term effects. There have been no longitudinal studies to trace the development of prosocial behavior and its relation to television viewing over the years. For example, Fryear and Thelen (1969) differentially exposed two groups of nursery school children to televised sequences. The experimental group which observed an adult showing affectionate behavior toward a toy clown subsequently displayed more affection toward such a toy than a control group, when given an opportunity to play with a group of toys which included the

clown. In this study there was no indication of the extent of aggressive behavior prior to or subsequent to the televised sequences. However, both aggressive and prosocial behavior were observed in another "naturalistic" study done by Stein and Fredrich (1972) in which approximately 100 nursery school children were randomly assigned to one of three groups to watch selected TV programs for four weeks. One group watched aggressive TV programs such as *Batman* cartoons; a second group watched neutral films such as children working on a farm, and a third group watched *Mr. Rogers Neighborhood*, a prosocial program in which cooperative, friendly, and calm behaviors are modeled. During this same period, the children's free play behavior was recorded by observers unaware of the children's experimental condition. Aggression was defined as an action intended to injure another person or object and included acts of physical and verbal aggression, teasing, tattling and "vigorous commands." Prosocial categories included "cooperation, nurturance, mature social skills and verbalization of feeling" (p. 214). Exposure to prosocial content led to increased recording of prosocial behavior, as compared to the baseline period. "Children exposed to the prosocial television programs showed higher levels of rule obedience, tolerance of delay and persistence than children exposed to the aggressive programs" (p. 273). The aggressive programs seemed to affect mostly those children who were initially high aggressive.

However, whether it is an antisocial or prosocial sequence, the more frequently the child rehearses the sequence by continued viewing, the more likely is it to be remembered and reenacted when the youngster is in a situation perceived to be similar. Further, by consistently observing either aggressive or prosocial behavior, the youngster comes to believe these are expected, appropriate ways of behaving, and that most people solve problems that way. Norms for appropriate behavior are established, and attitudes are formed or changed by observations of other persons' frequent behavior, especially if that behavior is sanctioned by authority figures

(Tower, Singer, Singer & Biggs, 1979). The child who has been watching programs with primarily aggressive content comes away with the impression that the world is a jungle fraught with dangerous threats, and the only way to survive is to be on the attack. The child who has been watching programs with primarily prosocial content will learn that the way to solve problems is through deference, consideration, cooperation, and kindness and that the world is a place where problems can be worked through without unnecessary and irreparable harm done to the self or other persons. Here, of course, these alternatives are drawn in the extreme; but the more a youngster is exposed to one or the other type of television content, the more apt he or she is to respond to life situations in a corresponding manner.

These studies are representative of the many investigations done both in the laboratory and in natural settings which demonstrate that observation of behavioral sequences on the television screen can influence the subsequent real life behaviors of the observers

CONCLUSIONS, IMPLICATIONS AND RECOMMENDATIONS

We believe that it has been demonstrated conclusively both by us and by others that heavy exposure to televised violence is one of the causes of aggressive behavior, crime, and violence in society. The evidence comes from both the laboratory and real-life studies. Television violence affects youngsters of all ages, of both genders, at all socioeconomic levels and all levels of intelligence. The effect is not limited to children who are already disposed to being aggressive and is not restricted to this country. We have demonstrated that children in at least four other countries, Finland, Poland, Israel, and Australia, countries with different political and economic systems and varying in degree of control over television programming, also are affected in their aggressive behavior by the violence they observe on television. The fact that we get this same finding of a relation between television violence and aggression in children in study

after study in one country after another, cannot be ignored. The causal effect of television violence on aggression, even though it is not very large, exists. It cannot be denied or explained away. We have demonstrated this causal effect outside the laboratory in natural settings among many different children. We have come to believe that a vicious cycle exists in which television violence makes children more aggressive and these more aggressive children turn to watching more violence to justify their own behavior. This means that the effect is bidirectional. Practically, it means that if media violence is reduced, the level of interpersonal aggression in our society will also be reduced eventually.

What are the implications of these findings for public policy, for society, and for individual parents? How can the deleterious effects of television violence be curtailed and/or controlled? The most obvious response is to compel the networks to reduce drastically the presentation of violence, especially gratuitous violence which is not necessary for the story line, has no esthetic purpose or socially redeeming value, but is included merely because of its sensational, attention-getting quality. Television executives have consistently denied that there is an effect of viewing television violence on aggressive behavior, although, illogically, they do not maintain there is no effect of viewing television commercials on consumer behavior. Violence is a cheap and easy way to attract and maintain viewers' attention. Network executives claim that viewers prefer programs with heavy doses of violence, erroneously equating violence with action, for which a preference does exist. Thus, it is highly unlikely that they will voluntarily reduce the heavy violence content of daily television fare. Whenever government censorship is suggested, a tremendous hue and cry is raised about First Amendment rights. Personally, we are in favor of freedom of expression and abhor the prospect of censorship. But the situation has now assumed the proportions of a massive public health problem. If the networks do not voluntarily impose some controls on the producers of their programs, the public ultimately will demand that the govern-

ment intervene. Many democratic countries limit the amount of violence shown on television (e.g., England, Finland, and the Netherlands). This has not been seen as a threat to the democratic rights of their citizens.

But what can we do until the networks show some restraint or restraint is imposed on them by some government agency? Parents cannot absolve themselves completely of responsibility for monitoring what their children watch, although it is very difficult for most parents to exercise complete control over their children's viewing habits. A number of aids have been developed to help parents cope with these problems (see, for example, the work of Singer & Singer, 1981). We also have demonstrated elsewhere (Huesmann, Eron, et al., 1983) that it is possible to reduce the deleterious effect of television violence on children's aggressive behavior by teaching them that the violence they see is unrealistic, that there are productive ways to solve life's problems, that aggression and violence have serious irreversible consequences, and that too much television is, very simply, bad for children. It is the responsibility of educators, media experts, child-welfare workers, and the researchers themselves to see that such findings are disseminated widely so that parents will know what television is doing to their children and what they can do about it.

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