

Copies of the state submittals are available at the following addresses for inspection during normal business hours: Air and Radiation Docket and Information Center, U.S. Environmental Protection Agency, 401 M Street, SW, Washington, DC 20460.

Environmental Protection Agency, Region 4, Air Planning Branch, 61 Forsyth Street, SW, Atlanta, Georgia 30303-8960. Dale Aspy, 404/562-9041; Lynorae Benjamin, 404/562-9040.

Georgia Department of Natural Resources, Environmental Protection Division, Air Protection Branch, 4244 International Parkway, Suite 120, Atlanta, Georgia 30354. 404/363-7000.

**FOR FURTHER INFORMATION CONTACT:** Dale Aspy at 404/562-9041 or Lynorae Benjamin at 404/562-9040.

**SUPPLEMENTARY INFORMATION:** For additional information see the direct final rule which is published in the Rules section of this **Federal Register**.

Dated: January 5, 2000.

**A. Stanley Meiburg,**

*Acting Regional Administrator, Region 4.*

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## FEDERAL COMMUNICATIONS COMMISSION

### 47 CFR Part 73

[MM Docket No. 99-360; FCC 99-390]

### Public Interest Obligations of Television Broadcast Licensees

**AGENCY:** Federal Communications Commission.

**ACTION:** Notice of Proposed Rulemaking.

**SUMMARY:** This document solicits comments on how broadcasters can best serve the public interest as they transition to digital transmission technology. The document is guided by several proposals the Commission has received and other recommendations that have been made in recent years.

**DATES:** Comments are due on or before March 27, 2000; reply comments are due on or before April 25, 2000.

**ADDRESSES:** Federal Communications Commission, 445 12th Street, Room TW-A306, SW, Washington, DC 20554.

**FOR FURTHER INFORMATION CONTACT:** Eric Bash, Policy and Rules Division, Mass Media Bureau (202) 418-2130, TTY (202) 418-1169.

**SUPPLEMENTARY INFORMATION:** This is a summary of the Commission's Notice of Inquiry ("NOI"), FCC 99-390, adopted December 15, 1999; released December

20, 1999. The full text of the Commission's *NOI* is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room TW-A306), 445 12 St. SW, Washington, DC. The complete text of this *NOI* may also be purchased from the Commission's copy contractor, International Transcription Services (202) 857-3800, 1231 20th St., NW, Washington, DC 20036.

### Synopsis of Notice of Inquiry

#### I. Introduction

1. Television is the primary source of news and information to Americans, and provides hours of entertainment every week. In particular, children spend far more time watching television that they spend with any other type of media. Those who broadcast television programming thus have a significant impact on society. Given the impact of their programming and their use of the public airwaves, broadcasters have a special role in serving the public. For over seventy years, broadcasters have been required by statute to serve the "public interest, convenience, and necessity." Congress has charged the Federal Communications Commission with the responsibility of implementing and enforcing this public interest requirement. Indeed, this is the "touchstone" of the Commission's statutory duty in licensing the public airwaves. Under the Communications Act of 1934, the Commission may issue, renew, or approve the transfer of a broadcast license only upon first finding that doing so will serve the public interest.

2. There has been considerable debate over the years about how the Commission should carry out this statutory mandate. Currently, broadcasters must comply with a number of affirmative public interest programming and service obligations. For example, broadcast licensees must provide coverage of issues facing their communities and place lists of programming used in providing significant treatment of such issues in their public inspection files. Broadcasters must also comply with statutory political broadcasting requirements regarding equal opportunities, charges for political advertising, and reasonable access for federal candidates. In addition, television broadcasters must provide children's educational and informational programming under the Children's Television Act of 1990. In terms of programming obligations, broadcasters are also prohibited from airing programming that is obscene, and

restricted from airing programming that is "indecent" during certain times of the day. Similarly, broadcasters also have obligations regarding closed captioning, equal employment opportunity, sponsorship identification, and advertisements during children's programming.

3. The discussion of television broadcasters' public interest obligations has been renewed by their transition from analog to digital television (DTV) technology. This is due in part to the new opportunities DTV provides. DTV holds the promise of reinventing free, over-the-air television by offering broadcasters new and valuable business opportunities and providing consumers new and valuable services. DTV broadcasters will have the technical capability and regulatory flexibility to air high definition TV (HDTV) programming with state-of-the-art picture clarity; to "multicast" by simultaneously providing multiple channels of standard digital programming and/or HDTV programming; and to "datacast" by providing data such as stock quotes, or interactive TV via the DTV bitstream.

4. In establishing the statutory framework for the transition to DTV, Congress directed the Commission to grant any new DTV licenses to all existing television broadcasters. Congress stated in section 336 of the Communications Act that "[n]othing in this section shall be construed as relieving a television broadcasting station from its obligation to serve the public interest, convenience, and necessity." Likewise, in implementing section 336 in the 5th Report and Order in the DTV proceeding (62 FR 26966, May 16, 1997), the Commission reaffirmed that digital TV broadcasters remain public trustees and must serve the public interest, and that existing public interest obligations continue to apply to all broadcast licensees.

5. The Commission also indicated, however, that "[b]roadcasters and the public are also on notice that the Commission may adopt new public interest rules for digital television." Commenters in the DTV proceeding adopted different views on this issue, with some arguing that broadcasters' public interest obligations in the digital world "should be clearly defined and commensurate with the new opportunities provided by the digital channels broadcasters are receiving," while others contended that "current public interest rules need not change simply because broadcasters will be using digital technology to provide the same broadcast service to the public." The Commission declined to resolve the

issue in the DTV proceeding, instead choosing to issue a notice to consider all views at a later point.

6. We undertake that task with this *NOI*. In doing so, we are guided by several proposals and recommendations made in recent years. Among the most significant of these are the recommendations of the President's Advisory Committee on the Public Interest Obligations of Digital Television Broadcasters ("Advisory Committee"). The Advisory Committee was comprised of a broad cross-section of interests, consisting of twenty-two members chosen by the President from "the commercial and noncommercial broadcasting industry, computer industries, producers, academic institutions, public interest organizations, and the advertising community." On December 18, 1998, the Advisory Committee submitted a report, which contains ten separate recommendations on the public interest obligations digital television broadcasters should assume. On October 20, 1999, Vice President Gore submitted a letter to Chairman Kennard asking the Commission to focus on several of the Advisory Committee's recommendations in particular.

7. In addition to the Advisory Committee's recommendations, on June 3, 1999, People for Better TV filed a petition for rulemaking and a petition for notice of inquiry. People for Better TV also includes a number of diverse groups. People for Better TV argues that the Telecommunications Act of 1996 requires the Commission to determine the public interest obligations of DTV broadcasters, that the advent of DTV requires the Commission to consider public interest obligations anew, and to clarify whether existing guidelines apply, and that both broadcasters and the public need a basic set of public interest standards. The group contends that the Commission should initiate a rulemaking proceeding to determine the public interest obligations of digital broadcasters. People for Better TV also urged the Commission to issue a notice of inquiry and hold hearings on the public interest obligations of digital television licensees, focusing on a variety of categories. On November 16, 1999 People for Better TV submitted a letter to Chairman Kennard reiterating its request that the Commission initiate a proceeding to determine the public interest obligations of DTV broadcasters.

8. We are also guided by the thoughts and work of other advocates regarding broadcasters' public interest obligations, including those proposals that are not as closely tied to the new opportunities inherent in digital technology. The

conversion from analog to digital is a long transition, and both analog and digital broadcasters must operate consistently in the public interest during the transition. At the same time, we acknowledge that many broadcasters have served the public interest in numerous ways over the years. According to a report of the National Association of Broadcasters published in 1998, the nation's broadcasters provided \$6.85 billion in community service in 1996. Therefore, by this *NOI*, we are asking broadcasters and members of the public to present their views or ideas on how best to implement the public interest standard during the transition. As the courts have acknowledged, and the transition to DTV reinforces, the public interest standard is "a supple instrument" designed to be flexible enough to accommodate the "dynamic aspects of radio transmission," and we believe that it is an appropriate time to create a forum for public debate.

## II. Areas of Inquiry and Request for Comments

9. At this the advent of the digital age, we seek comment on how broadcasters can best serve the public interest during and after the transition to digital technology. We seek comment on challenges unique to the digital era, how broadcasters can meet their public interest obligations on both their analog and digital channels during the transition period, and on various proposals and recommendations that have been made on how broadcasters could better serve their communities of license. We welcome other proposals, and request parties to articulate legal bases for their proposals, and explain how they would serve the public interest.

### A. Challenges Unique to the Digital Era

10. More than 100 DTV stations are currently on the air. These broadcasters, as well as all television licensees upon the conversion to DTV, have the flexibility either to "multicast," to provide HDTV, or to "multiplex" DTV programming and "ancillary and supplementary services" at the same time. Both the Act and the Commission's implementing actions make it clear that DTV broadcasters must continue to serve the public interest. We seek comment on how to define these obligations. We are especially interested in specific proposals addressing whether and how existing public interest obligations should translate to the digital medium.

11. In implementing section 336, the Commission required that broadcasters

air "free digital video programming service the resolution of which is comparable to or better than that of today's services, and aired during the same time period that their analog channel is broadcasting." In doing so, the Commission stated that "broadcast licensees and the public are on notice that existing public interest requirements continue to apply to all broadcast licensees." It is thus clear that DTV broadcasters must air programming responsive to their communities of license, comply with the statutory requirements concerning political advertising and candidate access, and provide children's educational and informational programming, among other things. But as People for Better TV ask, how do these obligations apply to a DTV broadcaster that chooses to multicast? Do a licensee's public interest obligations attach to the DTV channel as a whole, such that a licensee has discretion to fulfill them on one of its program streams, or to air some of its public interest programming on more than one of its program streams? Should, instead, the obligations attach to each program stream offered by the licensee, such that, for example, a licensee would need to air children's programming on each of its DTV program streams? The Advisory Committee Report contemplates that, under certain circumstances, a digital broadcaster should not have nonstatutory public interest obligations imposed on channels other than its "primary" channel. A majority of the members of the Advisory Committee believe that the FCC should prohibit broadcasters from segregating candidate-centered programming to separate program streams, because they believe that would violate candidates' reasonable access and equal opportunities. We seek comment on these approaches. In addition, how should we take into account the fact that DTV broadcasters can choose either to multicast multiple standard definition DTV program streams or broadcast one or two HDTV program streams during different parts of the day? In addressing these issues, commenters should discuss the requirements of section 336(d) of the Act, which states that a "television licensee shall establish that *all* of its program services on the existing or advanced spectrum are in the public interest."

12. People for Better TV propose several other ways that digital broadcasters might better serve the nation's children, such as setting aside a minimum number of hours each week to provide educational programs or

services, which might include data transmission for schools. In addition, PBTv suggests that the increased information capability of digital technology could improve the current voluntary ratings system. We seek comment on these ideas. In addition, should the ratings of programs promoted by broadcasters be consistent with the rating of the program during which the promotions run? We also ask commenters to address how the policies set forth in the Children's Television Policy Statement should be applied in the digital environment.

13. By definition, ancillary and supplementary services, such as datacasting or paging, are services other than free, over-the-air services. Do a licensee's public interest obligations apply to its ancillary and supplementary services? In addressing these issues, commenters should discuss the relevance of several sections of section 336. People for Better TV contends that "the public interest standard attends to all DTV uses of the spectrum," and points out that section 336(a)(2) states that the Commission "shall adopt regulations that allow the holders of [DTV] licenses to offer such ancillary and supplementary services on designated frequencies as may be consistent with the public interest, convenience, and necessity." We note that section 336(e) requires the Commission to collect fees from DTV broadcasters that offer ancillary and supplementary services, which fees must "recover for the public an amount that, to the extent feasible, equals but does not exceed (over the term of the license) the amount that would have been recovered had such services been licensed pursuant to the provision of section 309(j) of this Act and the Commission's regulations thereunder." In addition, section 336(b)(3) simply requires the Commission to "apply to any other ancillary and supplementary service such of the Commission's regulations as are applicable to the offering of analogous services by any other person." The Advisory Committee Report recommends that "[b]roadcasters that choose to implement datacasting should transmit information on behalf of local schools, libraries, community-based organizations, governmental bodies, and public safety institutions." The Advisory Committee Report suggests that "[t]his activity should count toward fulfillment of a digital broadcaster's public interest obligations," without indicating which regulations are applicable to ancillary and supplementary services. We seek comment on this proposal. How would

datacasting count toward the DTV broadcasters' public interest obligations? We also seek comment more generally on whether the public interest obligations should apply to ancillary and supplementary services, and if so, how.

#### *B. Responding to the Community*

14. One of a broadcaster's fundamental public interest obligations is to air programming responsive to the needs and interests of its community of license. Another of its most basic obligations in responding to the public's informational needs is to air emergency information. Technological advances, including digital technology, may allow broadcasters to fulfill these obligations better. In addition, broadcasters might make information about their programming more accessible, and therefore more responsive, to their communities of license through posting such information on websites on the Internet. As broadcasters move forward with their transition to digital technology, we seek to find ways to help them serve their communities better and more fully.

##### *1. Disclosure Obligations*

15. People for Better TV states that DTV broadcasters should "disclose their public interest programming and activities on a quarterly basis, matched against ascertained community needs," gathered by reaching out to "ordinary citizens and local leaders" and sought through "postal and electronic mail services as well as broadcast announcements." The Advisory Committee Report recommends that DTV broadcasters "should be required to make enhanced disclosures of their public interest programming and activities on a quarterly basis, using standardized check-off forms that reduce administrative burdens and can be easily understood by the public." The Advisory Committee Report explains that effective self-regulation requires broadcasters to make available to the public adequate information about what they are doing. The Committee notes that the Commission already requires all TV broadcasters to place in their public files separate quarterly reports on their non-entertainment programming responsive to community needs and on their children's programming, and recommends that the Commission require broadcasters to augment these reports. The enhanced disclosures "should include but not be limited to contributions to political discourse, public service announcements, children's and educational

programming, local programming, programming that meets the needs of underserved communities, and community-specific activities." The Committee also recommends that digital TV broadcasters take steps to distribute public interest information more widely, through newspapers and websites. We seek comment on these recommendations.

16. Our rules currently require commercial TV broadcasters to include in their public file, among other things, citizen agreements, records concerning broadcasts by candidates for public office, annual employment reports, letters and e-mail from the public, issues/programming lists, records concerning children's programming commercial limits, and children's television programming reports. Should broadcasters provide the additional types of public service information proposed by the Advisory Committee Report and People for Better TV? Should they provide information in addition to, or in lieu of, that proposed by the Advisory Committee and People for Better TV? Should the public file contain information on what programming has closed captioning and video description? We seek comment on the extent to which the Advisory Committee's and People for Better TV's proposals parallel the Commission's previous ascertainment requirements, which the Commission repealed in the 1980s, and we ask parties to address whether the Commission's reasons for eliminating those requirements apply to our consideration of these proposals. These ascertainment guidelines set forth specific standards for broadcasters on consulting with community leaders, identifying and responding to community needs and problems through programming, and maintaining and making available various records on their ascertainment procedures.

17. We currently allow licensees to maintain their public inspection file in computer databases, and encourage licensees that elect this option to post their public file on any websites they maintain. We seek comment on how many broadcasters provide their public file in this format, and the costs and benefits of doing so. In particular, we seek comment on how broadcasters could use the Internet to ensure that they are responsive to the needs of the public. We seek comment on whether broadcasters should be required to make their public files available on the Internet, and whether those broadcasters that maintain a station website on the Internet could or should use the Internet to interact directly with the public, perhaps by establishing forums in

which the public could post comments and engage in an ongoing dialogue about the broadcaster's programming. How could these websites and forums be made accessible to persons with disabilities? In addition, we seek comment on whether it would promote responsiveness to the community to require the disclosure of certain information (e.g., the individual ultimately responsible for a program's airing or content) that would enable public input more easily and meaningfully.

## 2. Disaster Warnings

18. The Advisory Committee Report recommends that "[b]roadcasters should work with appropriate emergency communications specialists and manufacturers to determine the most effective means to transmit disaster warning information. The means chosen should be minimally intrusive on bandwidth and not result in undue additional burdens or costs on broadcasters. Appropriate regulatory authorities should also work with manufacturers of digital television sets to make sure that they are modified to handle these kinds of transmissions." The Advisory Committee Report explains that digital technology will provide innovative and new ways to transmit warnings, such as pinpointing specific households or neighborhoods at risk, and suggests that DTV broadcasters take advantage of these technological advances. The Advisory Committee Report also states that most of these innovations will require only minimal use of the 6 MHz bandwidth allocated to digital broadcasters.

19. We seek comment on the Advisory Committee Report's recommendation. One of broadcasters' fundamental public interest obligations is to warn viewers about impending disasters and keep them informed about related events. What unique capabilities does digital technology give broadcasters to deliver disaster-related information? What role should the Commission play to encourage broadcasters to deploy such technology to deliver enhanced disaster information? How can we facilitate the realization of the Advisory Committee's goals? We note that the Commission recently adopted its "Emergency Alert System" requirements, set forth in part 11 of the Commission's rules. Should the Commission adopt any different requirements for DTV broadcasters?

## 3. Minimum Public Interest Obligations

20. The Advisory Committee Report recommends that "[t]he FCC should adopt a set of mandatory minimum public interest requirements for digital

broadcasters \* \* \* that would not impose an undue burden on digital broadcast stations, \* \* \* should apply to areas generally accepted as important universal responsibilities for broadcasters," and should be phased in over several years.

21. We seek comment on the Advisory Committee Report's recommendations regarding minimum public interest requirements. Many members of the Advisory Committee were concerned that not all television broadcasters would adopt voluntary measures, while other members strongly opposed Commission-imposed minimum public interest requirements as unnecessary, preferring to give television broadcasters maximum flexibility and discretion in meeting their public interest obligations. Other parties have argued in our DTV proceeding that the Commission should adopt more specific public interest programming requirements given the new opportunities broadcasters will have in converting to DTV. They also express the concern that television broadcasters are not airing a sufficient amount of public interest programming, including local public affairs programming.

22. We invite comment on this debate. Should the Commission establish more specific minimum requirements or guidelines regarding television broadcasters' public interest obligations? Would this make the license renewal process more certain and meaningful by spelling out the public interest standard in more detail? How would such minimum requirements be defined? What additional costs, if any, would those requirements impose? Are there sufficient marketplace incentives to ensure the provision of programming responsive to community needs, obviating the need for additional requirements?

## C. Enhancing Access to the Media

23. One of the Commission's long-standing goals in the area of broadcast regulation is to enhance the access to the media by all people, including people of all races, ethnicities, and gender, and, most recently, disabled persons. Congress emphasized this goal when it amended section 1 of the Communications Act in 1996 to refine this agency's mission to make available "to all people of the United States, without discrimination on the basis of race, color, religion, national origin, or sex, a rapid, efficient, Nation-wide, and world-wide wire and radio communication service \* \* \* ." It further highlighted this goal when it added provisions to the Act concerning

people with disabilities, such as section 713 relating to closed captioning and video description. Given the efficiencies of digital technology, DTV broadcasters will be able to "multicast" and air several programs at the same time, as well as provide more information within the signal of each programming stream. We seek comment on the ways broadcasters can use this technology to provide greater access to the media.

## 1. Disabilities

24. Digital technology offers great possibilities for broadcasters to make their programming more accessible to persons with disabilities. For example, digital technology could enable viewers to change the size of captions in order to see both captions and the text appearing on a TV screen. In addition, digital technology permits broadcasters to provide several different audio programs, which could make video description more widely available.

25. In urging that the Commission issue this *NOI*, People for Better TV ask that the Commission emphasize, among other things, the "expansion of services to person with disabilities." The group specifically suggests that a "digital broadcast station should provide closed captioning and description services for the blind of PSAs, public affairs programming, and political programming." It urges that "[c]aptioning and descriptions in these areas should be phased in over the first 4 years of a station's digital broadcasts, but should be completed no later than 2006." Similarly, the Advisory Committee Report recommends that digital TV broadcasters "take full advantage" of new digital technologies to provide "maximum choice and quality for Americans with disabilities, where doing so would not impose an undue burden on the broadcasters." The Committee specifically enumerates closed captioning, video description, and disability access to ancillary and supplementary services. The Committee asks broadcasters to take full advantage of digital closed captioning technology that will enable viewers to change the size of captions to see both the caption and text otherwise behind the caption, and also calls on broadcasters to expand gradually captioning on PSAs, public affairs programming, and political programming. The Committee also requests digital broadcasters to allocate sufficient bandwidth among their multiple audio channels to make expanded use of video description technology feasible. The Committee further suggests that any digital broadcaster that provides ancillary and supplementary services not impinge on

the 9600 baud bandwidth currently set aside for closed captioning, and encourages broadcasters to explore new digital technologies to expand access to such services to persons with disabilities, such as offering text options for material presented orally and an audio option for material presented visually. The Committee finally recommends that the Commission and other regulatory authorities work with set manufacturers to ensure that modifications in audio channels, decoders, and other technical areas are designed to ensure the most efficient, inexpensive, and innovative capabilities for disability access.

26. We seek comment on these proposals. We note that the Commission has adopted closed captioning rules to implement section 305 of the 1996 Act. These closed captioning rules require broadcasters (both analog and digital TV broadcasters, among other video programming distributors and providers) to caption new programming gradually, according to a phase-in schedule, and to caption 75% of "pre-rule" programming by 2008. Our rules also require broadcasters to pass through the captioning provided by program suppliers, unless it requires reformatting. Certain types of programming and providers, however, are exempt from these requirements. Should the Commission impose different requirements on DTV broadcasters? We note that we have recently proposed to adopt technical standards for the display of closed captioning on DTV receivers, and to require the inclusion of closed captioning decoder circuitry in DTV receivers.

27. With respect to video description, we note that the Commission has submitted two reports to Congress, pursuant to section 305(f) of the 1996 Act (codified as section 713(f) of the 1934 Act), and recently proposed limited rules to phase video description into the marketplace. In both of its reports to Congress, the Commission noted that, since digital technology does not have the capacity limitations of analog, its more widespread deployment will, in turn, make more widespread video description available. The Commission therefore suggested that any phase-in schedules should take into account the transition to DTV. In the *Video Description Notice*, we thus proposed limited rules for analog broadcasters, but made clear our intention to extend video description to digital broadcasters. We seek comment on how the Commission could encourage DTV broadcasters to take advantage of the enhanced capabilities

of the technology to provide more video description.

28. The Advisory Committee Report also recommends that DTV broadcasters make ancillary and supplementary services available to persons with disabilities. We seek comment on what types of ancillary and services broadcasters might provide, and on how they could be made accessible to persons with disabilities.

## 2. Diversity

29. Diversity of viewpoint, ownership, and employment have long been and continue to be a fundamental public policy goal in broadcasting. In section 309(j) of the Act, Congress directed the Commission to prescribe competitive bidding rules to promote "economic opportunity for a wide variety of applicants, including small businesses, rural telephone companies, and businesses owned by members of minority groups and women." In part, to fulfill that mandate, we offered a bidding credit to new entrants in our recent auction of broadcast licenses. Prior to the adoption of section 309(j), and throughout its history, the Commission has also pursued a number of initiatives to diversify broadcast station ownership and employment. For example, the Commission identified "diversification of control of the media of mass communications" as "a factor of primary significance" in its comparative licensing processes, and adopted diversity and minority "preferences" in certain of its random selection processes. In addition, we are currently conducting a number of studies to evaluate the barriers to acquisition of broadcast licenses, and barriers to entry or growth, that small, minority-, and women-owned businesses face, as well as to examine the impact of our multiple ownership rules on broadcast station ownership, and the impact of small, minority, and women ownership of broadcast stations on service. The Commission has also adopted equal opportunity rules that are designed to foster opportunity in the broadcast industry for minorities and women. The outreach portion of these rules was struck down on constitutional grounds by the D.C. Circuit. However, we issued a *Notice of Proposed Rulemaking* (63 FR 66104, December 1, 1998) proposing new EEO rules, and expect to issue an order in the near future.

30. Broadcasters have voluntarily pursued a number of initiatives to foster diversity. Most recently, broadcasters created an investment fund, with current initial cash commitments of \$175 million and ultimate purchasing power of possibly \$1 billion, to spur

ownership of television and radio by minorities and women. In addition, many broadcasters have made voluntary commitments to abide by equal opportunity principles, whether required by law to do so or not.

31. People for Better TV ask that DTV broadcasters exploit digital technology to reflect the diversity of their communities, through any number of practices. The group explains that network programming cannot respond to diverse needs of each community, and so local stations must come to know and provide service to diverse communities. It asks that broadcasters support the goal of diversity and report quarterly on their efforts.

32. The Advisory Committee Report states that "[d]iversity is an important value in broadcasting, whether it is in programming, political discourse, hiring, promotion, or business opportunities within the industry." As such, it recommends that "broadcasters seize the opportunity inherent in the digital television technology to substantially enhance the diversity available in the television marketplace." Many of the Advisory Committee's other recommendations bear on its goal of diversity in broadcasting. For example, the Advisory Committee Report advocates flexibility in multiplexing so that broadcasters can create new opportunities for minority entrepreneurship through channel-leasing arrangements, partnerships and other creative business arrangements. In addition, the Advisory Committee Report recommends that, out of the returned analog spectrum one new 6 MHz channel for each viewing community be reserved for noncommercial purposes, including educational programming directed at minority groups and other underserved segments of the community. The Committee also recommends that "broadcasters voluntarily redouble their individual and collective efforts during the digital transition to encourage effective participation by minorities and women at all levels of the industry," including hiring and promotion policies that result in significant representation of minorities and women in the decision-making positions in the broadcast industry. The Committee hopes that all of the recommendations will help independent producers provide new programming. We note that several major civil rights organizations, including NAACP and La Raza, have raised similar concerns about the lack of cultural diversity on network programming.

33. The Advisory Committee Report generally does not contain separate,

stand-alone recommendations on how to achieve diversity in broadcasting; its recommendations are largely contained within other portions of the report on which we have sought comment above. In addition, as indicated, the Commission currently has a number of initiatives underway designed to diversify broadcast ownership and employment. What other ways could and should the Commission encourage diversity in broadcasting, consistent with relevant constitutional standards? We seek comment on innovative ways unique to DTV that the Commission could use to encourage diversity in the digital era, and encourage commenters to submit specific proposals.

#### *D. Enhancing Political Discourse*

34. The Commission has long interpreted the statutory public interest standard as imposing an obligation on broadcast licensees to air programming regarding political campaigns. The Supreme Court likewise has recognized the impact television broadcasting has on our political system: "Deliberation on the positions and qualifications of candidates is integral to our system of government, and electoral speech may have its most profound and widespread impact when it is disseminated through televised debates. A majority of the population cites television as its primary source of election information, and debates are regarded as the 'only occasion during a campaign when the attention of a large portion of the American public is focused on the election, as well as the only campaign information format which potentially offers sufficient time to explore issues and policies in depth in a neutral forum.'" We seek comment on ways that candidate access to television and thus the quality of political discourse might be improved. We propose no rules or policies in this *NOI*. Rather our goal in this *NOI* is to initiate a public debate on the question of whether, and how, broadcasters' public interest obligations can be refined to promote democracy and better educate the voting public. This debate will greatly assist the Commission and Congress in determining what, if any, further steps should be taken on these important issues.

35. We note that some broadcasters have devoted many hours of program time to political coverage. According to a report recently issued by the National Association of Broadcasters ("NAB Report"), in the 1996 election cycle broadcasters valued the time they voluntarily devoted to political campaigns at \$148.4 million. This programming took the form of coverage

of debates, conventions and issue fora. Many more hours of news programming not accounted for in these figures have been dedicated to covering local and national campaigns. In addition, during the 1996 elections, the Fox, PBS, and ABC networks voluntarily provided free airtime to the major presidential candidates using a variety of formats. For example, during the last six weeks of the 1996 presidential campaign the Fox television network offered each major presidential candidate free airtime, including the opportunity to make ten one-minute position statements that were broadcast in prime time. The PBS and ABC television networks also set aside free airtime for presentations by the major presidential candidates, and the A.H. Belo Corporation provided free airtime in selected federal congressional elections and gubernatorial races. The Commission exempted these efforts from the equal opportunity requirements, finding that the proposals qualified as on-the-spot coverage of a bona fide news event. We seek comment on what the Commission can do to encourage these kinds of voluntary efforts by television broadcasters.

36. On the other hand, we note that there are indications that many television broadcasters are providing scant coverage of local public affairs, and what coverage there is may be shrinking. For instance, a 1998 study by the University of Southern California Annenberg School for Communication found that only 0.31% of local news focused on the California governor's race, compared to a figure of 1.8% in 1974. Similarly, an April 1998 Joint Report by the Media Access Project and the Benton Foundation found that, in the markets examined, 35% of the stations provide no local news, and 25% offer neither local public affairs programming nor local news.

37. The Advisory Committee Report recommends that television broadcasters provide five minutes each night between 5:00 p.m. and 11:35 p.m. (or the appropriate equivalent in Central and Mountain time zones) for "candidate-centered discourse" thirty days before an election. The Committee envisions maximum flexibility for broadcasters, allowing them to choose the candidates and races—federal, state, and local—that deserve more attention. The Committee envisions that stations could choose formats, which might include giving candidates one minute of airtime, conducting mini-debates, or doing brief interviews, or including the "discourse" in newcasts. We seek comment on this idea. More generally, are there steps the Commission can take

to promote voluntary efforts to enhance political debate and the information the public receives concerning candidates?

38. Others have proposed that the Commission adopt rules requiring broadcast licensees to provide time to candidates. Although the Advisory Committee Report proposed voluntary efforts, thirteen members of the Committee—a majority—contend that the Committee's recommendations do not go far enough, and that the Commission should, among other things, require television broadcasters to provide some airtime for national and local candidates. In addition, former FCC General Counsel Henry Geller, on behalf of himself and others, ask the Commission to require television broadcasters to provide political candidates a reasonable amount of time each day in advance of a general election. More specifically, Geller et al. propose that the Commission require television broadcasters to provide twenty minutes of airtime each day thirty days before a general election in even-numbered years, and fifteen days before in odd-numbered years, when there are fewer elections. Geller et al. suggest that the Commission give television broadcasters the flexibility to decide how to provide the total of twenty minutes, except that the time should be provided between 6:00 a.m. to midnight, with at least five minutes in prime time. Geller et al. further suggest that the Communications Act requires the Commission to leave the selection of the races to be covered to the licensees. Geller et al. contend that the Commission's public interest authority extends to requiring broadcasters to provide time. We seek comment on these approaches, and on the Commission's authority to require broadcasters to provide airtime to political candidates. We also seek comment on the Advisory Committee's recommendation that the Commission should prohibit television broadcasters from adopting blanket bans on the sale of airtime to state and local candidates.

#### **IV. Administrative Matters**

39. *Comments and Reply Comments.* Pursuant to applicable procedures set forth in §§ 1.415 and 1.419 of the Commission's rules, 47 CFR 1.415 and 1.419, interested parties must file comments on or before March 27, 2000, and reply comments on or before April 25, 2000. Comments may be filed using the Commission's Electronic Comment Filing System (ECFS) or by filing paper copies. See *Electronic Filing of Documents in Rulemaking Proceedings*, 63 FR 24,121 (1998).

40. Comments filed through ECFS can be sent as an electronic file via the Internet to <http://www.fcc.gov/e-file/ecfs.html>. Generally, only one copy of an electronic submission must be filed. In completing the transmittal screen, commenters should include their full name, Postal Service mailing address, and the applicable docket or rulemaking number. Parties may also submit an electronic comment via e-mail. To get filing instructions for e-mail comments, commenters should send an e-mail to [edfs@fcc.gov](mailto:edfs@fcc.gov), and should include the following words in the body of the message, "get form <your e-mail address>." A sample form and directions will be sent in reply.

41. Parties who choose to file by paper must file an original and four copies of each filing. All filings must be sent to the Commission's Secretary, Magalie Roman Salas, Office of the Secretary, Federal Communications Commission, 445 Twelfth Street, S.W., TW-A325, Washington, D.C. 20554.

42. Parties who choose to file paper should also submit their comments on diskette. These diskettes should be addressed to: Wanda Hardy, Paralegal Specialist, Mass Media Bureau, Policy and Rules Division, Federal Communications Commission, 445 Twelfth Street, S.W., 2-C221, Washington, D.C. 20554. Such a submission should be on a 3.5 inch diskette formatted in an IBM compatible format using Word 97 or compatible software. The diskette should be accompanied by a cover letter and should be submitted in "read only" mode. The diskette should be clearly labeled with the commenter's name, proceeding (including the lead docket number in this case (MM Docket No. 99-360), type of pleading (comment or reply comment), date of submission, and the name of the electronic file on the diskette. The label should also include the following phrase "Disk Copy—Not an Original." Each diskette should contain only one party's pleadings, preferably in a single electronic file. In addition, commenters must sent diskette copies to the Commission's copy contractor, International Transcription Service, Inc., 445 Twelfth Street, S.W., CY-B402, Washington, D.C. 20554.

43. Comments and reply comments will be available for public inspection during regular business hours in the FCC Reference Center, Federal Communications Commission, 445 Twelfth Street, S.W., CY-A257, Washington, D.C. 20554. Persons with disabilities who need assistance in the FCC Reference Center may contact Bill Cline at (202) 418-0270, (202) 418-2555

TTY, or [bcline@fcc.gov](mailto:bcline@fcc.gov). Comments and reply comments also will be available electronically at the Commission's Disabilities Issues Task Force web site: [www.fcc.gov/df](http://www.fcc.gov/df). Comments and reply comments are available electronically in ASCII text, Word 97, and Adobe Acrobat.

44. This document is available in alternative formats (computer diskette, large print, audio cassette, and Braille). Persons who need documents in such formats may contact Armintha Henry at (202) 4810-0260, TTY (202) 418-2555, or [ahenry@fcc.gov](mailto:ahenry@fcc.gov).

45. *Ex Parte Rules*. Pursuant to the provisions of 47 CFR 1.1204(b)(1) this is an exempt proceeding. *Ex parte* presentations to or from Commission decision-making personnel are permissible and need not be disclosed.

#### IV. Ordering Clause

46. Pursuant to the authority contained in sections 4(i), 303(g), 303(r), 336 and 403 of the Communications Act of 1934, as amended, 47 U.S.C. 154(i), 303(g), 303(r), 336, and 403, this *Notice of Inquiry* is adopted.

Federal Communications Commission.

Magalie Roman Salas,  
Secretary.

[FR Doc. 00-1794 Filed 1-25-00; 8:45 am]

BILLING CODE 6712-01-P

## DEPARTMENT OF THE INTERIOR

### Fish and Wildlife Service

#### 50 CFR Part 23

RIN 1018-AF69

#### Proposed Rule: Notice of Intent To Include Several Native U.S. Species in Appendix III to the Convention on International Trade in Endangered Species of Wild Fauna and Flora

**AGENCY:** Fish and Wildlife Service, Interior.

**ACTION:** Proposed rule.

**SUMMARY:** The Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES), an international treaty, regulates international trade in certain animals and plants. Countries that have ratified or acceded to CITES monitor and regulate species listed in Appendices I, II, and III. Any country that is a Party to CITES may propose amendments to Appendix I or II for consideration by the other Parties; any country that is a Party may unilaterally list its native species in CITES Appendix III. Parties submit an

Appendix III listing to the CITES Secretariat, which then notifies all CITES Party countries of this listing. With this proposed rule, we are announcing a proposal to include the Alligator snapping turtle (*Macrochelys temminckii*) and all species of map turtles (*Graptemys* sp.), native US species, in CITES Appendix III.

**DATES:** You must send us your comments on this proposed rule by March 13, 2000.

**ADDRESSES:** You may send comments about this proposed rule to the Chief, Office of Scientific Authority; 4401 North Fairfax Drive, Room 750; Arlington, Virginia 22203. Fax number: 703-358-2276, E-mail: [r9osa@fws.gov](mailto:r9osa@fws.gov). Comments and other information received are available for public inspection, by appointment, from 8 a.m. to 4 p.m. Monday through Friday, at the Arlington, Virginia, address. You may obtain information about permits by contacting the Office of Management Authority, 4401 North Fairfax Drive, Room 700, Arlington, Virginia 22203; fax number: 703-358-2095, E-mail: [r9ia@fws.gov](mailto:r9ia@fws.gov), website: <http://www.fws.gov>.

**FOR FURTHER INFORMATION CONTACT:** Dr. Susan Lieberman, Chief, Office of Scientific Authority, US Fish and Wildlife Service, Washington, DC, telephone: 703-358-1708, fax: 703-358-2276, E-mail: [Susan\\_Lieberman@fws.gov](mailto:Susan_Lieberman@fws.gov).

#### SUPPLEMENTARY INFORMATION:

##### Background

##### Appendix III Background

CITES regulates import, export, re-export, and introduction from the sea of certain animal and plant species. CITES lists these species in one of three Appendices. Appendix I includes species threatened with extinction that are or may be affected by international trade. Appendix II includes species that, although not necessarily threatened with extinction now, may become so unless the trade is strictly controlled. It also lists species that CITES must regulate so that trade in other listed species may be brought under effective control (e.g., because of similarity of appearance between listed species and other species). Appendix III includes native species identified by any Party country that needs to be regulated to prevent or restrict exploitation and that requests the help of other Parties to monitor and control the trade of that species.

To include a species in Appendices I or II, a Party country must propose an amendment to the Appendices for