

Federal Communications Commission

§ 73.671

the equipment shall be measured in accordance with § 73.1690(e).

(b) Multiplex subcarriers may be used by a TV station pursuant to the provisions of § 73.665 and may be transmitted on a secondary, non-interference basis to broadcast programming without specific authority from the FCC. Transmissions must be conducted in accordance with the technical standards given in § 73.682(c).

(c) In all arrangements entered into with outside parties affecting non-common carrier subcarrier operation, the licensee or permittee must retain control over all material transmitted over the station's facilities, with the right to reject any material which is deemed inappropriate or undesirable. Sub-channel leasing arrangements must be kept in writing at the station and made available to the FCC upon request.

[49 FR 18106, Apr. 27, 1984]

§ 73.670 Commercial limits in children's programs.

(a) No commercial television broadcast station licensee shall air more than 10.5 minutes of commercial matter per hour during children's programming on weekends, or more than 12 minutes of commercial matter per hour on weekdays.

(b) The display of Internet Web site addresses during program material or promotional material not counted as commercial time is permitted only if the Web site:

(1) Offers a substantial amount of bona fide program-related or other noncommercial content;

(2) Is not primarily intended for commercial purposes, including either e-commerce or advertising;

(3) The Web site's home page and other menu pages are clearly labeled to distinguish the noncommercial from the commercial sections; and

(4) The page of the Web site to which viewers are directed by the Web site address is not used for e-commerce, advertising, or other commercial purposes (e.g., contains no links labeled "store" and no links to another page with commercial material).

(c) If an Internet address for a Web site that does not meet the test in paragraph (b) of this section is displayed

during a promotion in a children's program, in addition to counting against the commercial time limits in paragraph (a) of this section the promotion must be clearly separated from program material.

(d)(1) Entities subject to commercial time limits under the Children's Television Act shall not display a Web site address during or adjacent to a program if, at that time, on pages that are primarily devoted to free noncommercial content regarding that specific program or a character appearing in that program:

(i) Products are sold that feature a character appearing in that program; or

(ii) A character appearing in that program is used to actively sell products.

(2) The requirements of this paragraph do not apply to:

(i) Third-party sites linked from the companies' Web pages;

(ii) On-air third-party advertisements with Web site references to third-party Web sites; or

(iii) Pages that are primarily devoted to multiple characters from multiple programs.

NOTE 1: *Commercial matter* means air time sold for purposes of selling a product or service and promotions of television programs or video programming services other than children's or other age-appropriate programming appearing on the same channel or promotions for children's educational and informational programming on any channel.

NOTE 2: For purposes of this section, children's programming refers to programs originally produced and broadcast primarily for an audience of children 12 years old and younger.

[70 FR 36, Jan. 3, 2005, as amended at 71 FR 64164, Nov. 1, 2006]

§ 73.671 Educational and informational programming for children.

(a) Each commercial and non-commercial educational television broadcast station licensee has an obligation to serve, over the term of its license, the educational and informational needs of children through both the licensee's overall programming and programming specifically designed to serve such needs.

(b) Any special nonbroadcast efforts which enhance the value of children's

educational and informational television programming, and any special effort to produce or support educational and informational television programming by another station in the licensee's marketplace, may also contribute to meeting the licensee's obligation to serve, over the term of its license, the educational and informational needs of children.

(c) For purposes of this section, educational and informational television programming is any television programming that furthers the educational and informational needs of children 16 years of age and under in any respect, including the child's intellectual/cognitive or social/emotional needs. Programming specifically designed to serve the educational and informational needs of children ("Core Programming") is educational and informational programming that satisfies the following additional criteria:

(1) It has serving the educational and informational needs of children ages 16 and under as a significant purpose;

(2) It is aired between the hours of 7:00 a.m. and 10:00 p.m.;

(3) It is a regularly scheduled weekly program;

(4) It is at least 30 minutes in length;

(5) The program is identified as specifically designed to educate and inform children by the display on the television screen throughout the program of the symbol E/I;

(6) The educational and informational objective and the target child audience are specified in writing in the licensee's Children's Television Programming Report, as described in § 73.3526(e)(11)(iii); and

(7) Instructions for listing the program as educational/informational, including an indication of the age group for which the program is intended, are provided by the licensee to publishers of program guides, as described in § 73.673.

(d) Until analog channels are returned to the Commission, the Commission will apply the following processing guideline to analog stations in assessing whether a television broadcast licensee has complied with the Children's Television Act of 1990 ("CTA") on its analog channel. A licensee that has aired at least three

hours per week of Core Programming (as defined in paragraph (c) of this section and as averaged over a six month period) will be deemed to have satisfied its obligation to air such programming and shall have the CTA portion of its license renewal application approved by the Commission staff. A licensee will also be deemed to have satisfied this obligation and be eligible for such staff approval if the licensee demonstrates that it has aired a package of different types of educational and informational programming that, while containing somewhat less than three hours per week of Core Programming, demonstrates a level of commitment to educating and informing children that is at least equivalent to airing three hours per week of Core Programming. In this regard, specials, PSAs, short-form programs, and regularly scheduled non-weekly programs with a significant purpose of educating and informing children can count toward the three hour per week processing guideline. Licensees that do not meet these processing guidelines will be referred to the Commission, where they will have full opportunity to demonstrate compliance with the CTA (e.g., by relying in part on sponsorship of Core educational/informational programs on other stations in the market that increases the amount of Core educational and informational programming on the station airing the sponsored program and/or on special nonbroadcast efforts which enhance the value of children's educational and informational television programming).

(e) The Commission will apply the following processing guideline to digital stations in assessing whether a television broadcast licensee has complied with the Children's Television Act of 1990 ("CTA") on its digital channel(s).

(1) A digital television licensee providing only one stream of free digital video programming will be subject to the 3 hour/week Core Programming processing guideline discussed in paragraph (d) of this section on that channel; i.e., a licensee that has aired at least three hours per week of Core Programming (as defined in paragraph (c) of this section and as averaged over a six month period) on its main program stream will be deemed to have satisfied

its obligation to air such programming and shall have the CTA portion of its license renewal application approved by the Commission staff. A licensee will also be deemed to have satisfied this obligation and be eligible for such staff approval if the licensee demonstrates that it has aired a package of different types of educational and informational programming that, while containing somewhat less than three hours per week of Core Programming, demonstrates a level of commitment to educating and informing children that is at least equivalent to airing three hours per week of Core Programming. In this regard, specials, PSAs, short-form programs, and regularly scheduled non-weekly programs with a significant purpose of educating and informing children can count toward the three hour per week processing guideline. Licensees that do not meet these processing guidelines will be referred to the Commission, where they will have full opportunity to demonstrate compliance with the CTA (e.g., by relying in part on sponsorship of Core educational/informational programs on other stations in the market that increases the amount of Core educational and informational programming on the station airing the sponsored program and/or on special nonbroadcast efforts which enhance the value of children's educational and informational television programming).

(2)(i) A digital television licensee providing streams of free digital video programming in addition to its main program stream will be subject to the processing guideline described in paragraph (e)(1) of this section on its main program stream and to the following guideline applied to the additional programming: $\frac{1}{2}$ hour per week of additional Core Programming (as defined in paragraph (c) of this section and as averaged over a six month period) for every increment of 1 to 28 hours of free video programming provided in addition to the main program stream. Thus, digital broadcasters providing between 1 and 28 hours per week of free video programming in addition to their main program stream will have a guideline of $\frac{1}{2}$ hour per week of core programming in addition to the 3 hours per week on the main program stream.

Digital broadcasters providing between 29 and 56 hours per week of free video programming in addition to their main program stream will have a guideline of 1 hour per week of core programming in addition to the 3 hours per week on the main program stream. Digital broadcasters providing between 57 and 84 hours per week of free video programming in addition to their main program stream will have a guideline of $1\frac{1}{2}$ hours per week of core programming in addition to the 3 hours per week on the main program stream. The guideline will continue to increase in this manner for additional hours of free video programming.

(ii) Broadcasters providing more than one stream of free digital video programming may air all of their additional core programming, apart from the 3 hours of core programming that must be aired on the main program stream, on one free video channel, or distribute it across multiple free video channels, at their discretion, as long as the stream on which the core programming is aired has comparable MVPD carriage as the stream whose programming generates the core programming obligation under the processing guideline described in paragraph (e)(2)(i) of this section.

(3) For purposes of the guideline described in paragraph (e)(2) of this section, at least 50 percent of the core programming counted toward meeting the additional programming guideline cannot consist of program episodes that had already aired within the previous seven days on either the station's main program stream or on another of the station's free digital program streams. This requirement does not apply to any program stream that merely time shifts the entire programming line-up of another program stream and, during the digital transition, to core programs aired on both the analog station and a digital program stream.

NOTE 1 TO § 73.671: For purposes of determining under this section whether programming has a significant purpose of serving the educational and informational needs of children, the Commission will ordinarily rely on the good faith judgments of the licensee. Commission review of compliance with that

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element of the definition will be done only as a last resort.

[56 FR 19616, Apr. 29, 1991. Redesignated at 56 FR 28825, June 25, 1991, as amended at 61 FR 43997, Aug. 27, 1996; 70 FR 37, Jan. 3, 2005; 71 FR 64165, Nov. 1, 2006]

EFFECTIVE DATE NOTE: At 70 FR 37, Jan. 3, 2005, in § 73.671, paragraph (c)(5) was revised, effective Jan. 1, 2006. This paragraph contains information collection and record-keeping requirements and will not become effective until approval has been given by the Office of Management and Budget.

§ 73.672 [Reserved]

§ 73.673 Public information initiatives regarding educational and informational programming for children.

Each commercial television broadcast station licensee shall provide information identifying programming specifically designed to educate and inform children to publishers of program guides. Such information shall include an indication of the age group for which the program is intended.

[70 FR 9877, Mar. 1, 2005]

§ 73.674 Digital television transition notices by broadcasters.

(a) Each full-power commercial and noncommercial educational television broadcast station licensee or permittee must air an educational campaign about the transition from analog broadcasting to digital television (DTV). For each such commercial station, a licensee or permittee must elect by March 27, 2008, to comply with either paragraph (c) or (d) of this section. For each such noncommercial station, a licensee or permittee must elect, by March 27, 2008, to comply with paragraph (c), (d), or (e) of this section. A licensee or permittee must note their election via the filing of Form 388 as required by §§ 73.3526 and 73.3527.

(b) The following requirements apply to paragraphs (c), (d), and (e) of this section:

(1) The station must comply with the requirements of the paragraph it elects with respect to its analog channel and its primary digital stream.

(2) Any Public Service Announcement aired to comply with these requirements must be closed-captioned, notwithstanding § 79.1(d)(6) of this chapter.

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(3) The campaign must begin no later than March 27, 2008, and continue at least through the station's termination of analog service, not later than June 12, 2009, except for stations subject to the provisions of paragraph (b)(4) of this section.

(4) Any station that has filed a request for an extension of the deadline for construction of its full, authorized post-transition digital facility, including a request for phased transition pursuant to the Third DTV Periodic Report and Order in MB Docket 07–91, or is operating under such an extension, must continue its DTV consumer education campaign until the station completes construction of its full, authorized post-transition digital facility. After the station terminates analog service, it must continue to comply with the requirements of the Consumer Education Campaign Option that it has elected, except that the content of all on-air education must be revised to provide information about the station's limited digital service area and the anticipated date for it to complete construction and commence operation of its full, authorized post-transition digital facility.

(5) *Service loss notices*—Beginning April 1, 2009, if the FCC's Signal Loss Report, available on <http://www.dtv.gov>, predicts that 2 percent or more of the population in a station's Grade B analog service contour will not receive the station's digital signal, the station must air service loss notices, as provided in this paragraph.

(i) Service loss notices may be no fewer than 30 seconds long, and must be aired at least once per day, between 8 a.m. and 11:35 p.m. At least three service loss notices per week must air between 8 p.m. and 11 p.m. in the Atlantic, Eastern and Pacific time zones, and between 7 p.m. and 10 p.m. in the Mountain, Central, and Alaskan time zones.

(ii) Service loss notices are in addition to the other obligations imposed by this section.

(iii) The service loss notices must include the FCC's Call Center number, 1–888–CALL–FCC, the FCC's TTY number, 1–888–TELL–FCC, and the Web site