

Meeting Your 2020 Annual Children's Television Programming Reporting Obligations

By Lauren Lynch Flick and Scott R. Flick

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The deadline to file the 2020 Annual Children's Television Programming Report with the FCC is **January 30, 2021**, reflecting programming aired during the 2020 calendar year. Note that because this deadline falls on a weekend, submissions may be made on February 1, 2021. In addition, commercial stations' documentation of their compliance with the commercial limits in children's programming during the 2020 calendar year must be placed in their Public Inspection File by **January 30, 2021**.

Overview

The Children's Television Act of 1990 requires full power and Class A television stations to: (1) limit the amount of commercial matter aired during programs originally produced and broadcast for an audience of children 12 years of age and under, and (2) air programming responsive to the educational and informational needs of children 16 years of age and under. In addition, stations must comply with paperwork requirements related to these obligations.

On July 12, 2019, the FCC adopted a number of changes to its children's television programming rules. Substantively, the new rules provide broadcasters with additional flexibility in scheduling educational children's television programming, and modify some aspects of the definition of "core" educational children's television programming. Those portions of the revisions went into effect on September 16, 2019. Procedurally, the new rules eliminated quarterly filing of the commercial limits certifications and the Children's Television Programming Report in favor of annual filings. These revisions went into effect on January 21, 2020.

The differing effective dates of various aspects of the new rules resulted in a confusing situation in 2020 where stations had to file quarterly documentation of commercial limits compliance for the Fourth Quarter of 2019, but an Annual Children's Television Programming Report that only covered a small portion of the preceding year. As a result, the Children's Television Programming Report and commercial limits documentation filed this year will be the first to reflect an entire calendar year of operation under the new rules.

Commercial Television Stations

Commercial Limitations

The FCC's rules require that stations limit the amount of "commercial matter" appearing in programs aimed at children 12 years old and younger to 12 minutes per clock hour on weekdays and 10.5 minutes per clock hour on the weekend. The definition of commercial matter includes not only commercial spots, but also (i) website addresses displayed during children's programming and promotional material, unless they comply with a four-part test, (ii) websites that are considered "host-selling" under the Commission's rules, and (iii) program promos, unless they promote (a) children's educational/informational programming, or (b) other age-appropriate programming appearing on the same channel.

Licenses must upload supporting documents to the Public Inspection File to demonstrate compliance with these limits on an annual basis by **January 30** each year, covering the preceding calendar year. Documentation to show that the station has been complying with this requirement can be maintained in several different forms. It must, however, always identify the specific programs that the station believes are subject to the rules, and must list any instances of noncompliance.

Core Programming Requirements

To help stations identify which programs qualify as “educational and informational” for children 16 years of age and under, and determine how much of that programming they must air to demonstrate compliance with the Children's Television Act, the FCC has adopted a definition of “core” educational and informational programming, as well as three different safe harbor renewal processing guidelines that establish the minimum amount of core programming stations must air to receive a staff-level license renewal grant. Stations should document all core children's programming that they air, even where it exceeds the safe harbor minimums, to best present their performance at license renewal time.

Under the new rules, the FCC generally defines “core programming” as television programming that has as a significant purpose serving the educational and informational needs of children 16 years old or under and which is aired between 6:00 a.m. and 10:00 p.m. In addition, commercial stations must also identify each core program by displaying an “E/I” symbol onscreen throughout the program. Licensees must also provide information identifying each core program they air to publishers of program guides, though they no longer need to indicate a program's intended age range.

There are three ways to satisfy the Commission's processing guidelines:

- **Category A1:** Stations can meet their obligation by airing at least three hours per week (as averaged over a six-month period) of core programming, all of which is regularly scheduled, weekly, and at least 30 minutes in length. To satisfy Category A1's three-hour-per-week minimum, at least two hours must air on the primary stream and up to one hour may air on a multicast stream.
- **Category A2:** Stations can meet their obligation by airing at least 156 hours of core programming per year, including at least 26 hours per quarter that is regularly scheduled, weekly, and 30 minutes in length, and up to an additional 52 hours of programming throughout the year that is not provided on a regularly scheduled basis, but is at least 30 minutes in length. To the extent a station airs more than two hours per week of regularly scheduled core programming, it has the flexibility to air such additional regularly scheduled programming on a multicast stream. However, all non-regularly scheduled programming aired to satisfy the Category A2 minimum must air on the primary stream.
- **Category B:** Stations can meet their obligation by airing at least 156 hours of core programming per year, including at least 26 hours per quarter that is regularly scheduled, weekly, and 30 minutes in length, and up to an additional 52 hours of programming throughout the year that is not provided on a regularly scheduled basis, and may be less than 30 minutes in length, such as PSAs and interstitials. To the extent a station airs more than two hours per week of regularly scheduled core programming, it has the flexibility to air such additional regularly scheduled programming on a multicast stream. However, all non-regularly scheduled programming aired to satisfy the Category B minimum must air on the primary stream.

These processing guidelines, as well as other changes the Commission introduced regarding rebroadcasts and the rescheduling of preempted programming, provide stations greater flexibility in scheduling children's television programming. However, they require that stations understand these requirements and document them accurately in their Annual Children's Television Programming Report filings.

Filing the Children's Television Programming Report

The next Children's Television Programming Report must be filed electronically with the FCC by **February 1, 2021** (because, as noted above, the actual January 30 due date falls on a weekend). Broadcasters must file their Children's Television Programming Reports via the Licensing and Management System (LMS), accessible at <https://enterpriseefiling.fcc.gov/dataentry/login.html>. Once filed, the FCC's electronic filing system will automatically place the Children's Television Programming Report into the station's Public Inspection File. However, each station should confirm that has occurred to ensure that its Public Inspection File is complete.

Noncommercial Educational Television Stations

Because noncommercial educational television stations are precluded from airing commercials, the commercial limitation rules do not apply to them. Accordingly, noncommercial television stations have no obligation to place commercial limits documentation in their Public Inspection File. Similarly, though noncommercial stations are required to air programming responsive to the educational and informational needs of children 16 years of age and under, they do not need to complete Children's Television Programming Reports. They must, however, maintain records of their own in the event their performance is challenged at license renewal time. In the face of such a challenge, a noncommercial station will be required to have documentation available that demonstrates its efforts to meet the needs of children.

Please do not hesitate to contact the attorneys in the Communications Practice for specific advice on compliance with these rules or for assistance in preparing any of the above documentation.