

Campaign for a Commercial-Free Childhood

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June 19, 2008

The Honorable Kevin J. Martin
Chairman, Federal Communications Commission
445 12th Street, S.W.
Washington, D.C. 20554

Dear Mr. Chairman:

We are writing with respect to the Notice of Proposed Rulemaking (NPRM) on product placement and product integration which is under consideration by the Federal Communications Commission (FCC). The undersigned public health, media and child advocacy groups commend you for initiating this important action and strongly urge the Commission to adopt the NPRM without delay.

In a letter dated September 26, 2007, Congressman Edward Markey, chairman of the House Subcommittee on Telecommunications and the Internet, and Congressman Henry Waxman, chairman of the House Committee on Oversight and Government Reform, made a compelling case for the NPRM. We attach a copy of their letter for your convenience.

We strongly believe that an NPRM is the necessary and appropriate procedure, and not a Notice of Inquiry (NOI), as advocated by the advertising industry's trade associations.¹ A 2007 survey by the Kaiser Family Foundation found that 69% of parents were concerned that their children were exposed to too many ads in the TV programming they watch.² With product placement and product integration dramatically increasing, it is essential that the Commission adopt an NPRM, which would have the flexibility to address the concerns of parents, and not an NOI, which would merely document that a problem exists.

The rapid growth of "advertainment" in broadcast and cable media warrants immediate scrutiny. According to PQ Media, TV product placement revenue grew 33.7% in 2007 to

¹ O'Brien, Richard (AAAA), Jeffrey Perlman (AAF) and Daniel Jaffe (ANA), Letter to FCC Chairman Kevin Martin, 14 Dec 2007.

² Kaiser Family Foundation. "Parents Say They're Getting Control of Their Children's Exposure to Sex and Violence in the Media, Even Online; But Concerns About Media Run High," www.kff.org, 19 Jun 2007.

\$2.9 billion.³ Nielsen reports an overall 13% increase in the number of product placement occurrences in primetime broadcast network television in 2007, with the top ten programs scoring 25,950 placements.⁴ Cable programming is even more saturated, with 163,737 occurrences in the top ten shows.⁵ Fans of *American Idol*, which include millions of 2-11 year-olds, were bombarded with 4,151 product placements in the first 38 episodes this year. Branded content on the show jumped 19%, to a total of 545 minutes,⁶ or 14 minutes per episode on average. The hijacking of content by marketers makes a mockery of TV ad limits, threatens public health, and undermines parents' ability to monitor media and marketing influences.

As you stated in Chicago last September, "It is important for consumers to know when someone is trying to sell them something." The intent and purpose of the FCC's sponsorship identification rules are subverted by fleeting and minuscule disclosures that occur at the end of a program.

Moreover, current rules do not adequately address "product integration," wherein dialogue, scenes and whole sequences are scripted to persuade. Congressmen Markey and Waxman cited two episodes of the TV drama "Seventh Heaven," which resembled infomercials for Kraft's Oreo cookies. We are deeply concerned that these stealth advertising salvos aired during a nationwide epidemic of obesity and diabetes, when food producers were under scrutiny for their marketing tactics. Even if parents were informed that "promotional consideration was provided by Kraft," they could not know the depth of the scripting, nor which portions of the program were doctored with persuasive intent.

Research has demonstrated that product placement and integration can affect the brand choices of younger children and tweens.⁷ Research also suggests that adolescent consumer behavior is affected by product integration.⁸ It is not surprising that youth are vulnerable to these techniques since even adults can have trouble recognizing product placement as advertising⁹ and viewers of all ages are less likely to apply critical thinking to identify and evaluate advertising while engrossed in a story.¹⁰

³ PQ Media. "Exclusive PQ Media Research: Branded Entertainment Market Defies Slowing Economy, Expands 14.7% to \$22.3 bil. in 2007," www.pqmedia.com, 12 Feb 2008; Lemonnier, Jonathan, "Branded Entertainment Will Continue to Grow," *Advertising Age*, 14 Feb 2008.

⁴ Nielsen. "US Advertising Spending UP 0.6% in 2007, Internet Ad Spend UP 18.9%," *nielsen.com*, 31 March 2008.

⁵ Nielsen.

⁶ Grover, Ronald, "American Idol's Ads Infinitum," *Business Week*, 22 May 2008.

⁷ Autry, Susan and Lewis, Charles, "Exploring Children's Choice: The Reminder Effect of Product Placement," *Psychology & Marketing*, 21.9, 2004.

⁸ Sargent, James D. et al, "Adolescents Exposure to Movie Smoking: Its Relation to Smoking Initiation Among US Adolescents," *Pediatrics*, 116;1183-1191, 2005.

⁹ Yang, Moonhee et al., "Mental Models for Brand Placement," in *The Psychology Of Entertainment Media: Blurring the Lines Between Entertainment and Persuasion*, Mahwah, NJ: Lawrence Erlbaum, 79--81.

¹⁰ McCarty, John A., "Product Placement: The Nature of the Practice and Potential Avenues of Inquiry," in *The Psychology Of Entertainment Media: Blurring the Lines Between Entertainment and Persuasion*, Mahwah, NJ: Lawrence Erlbaum, 49-50.

This lack of transparency invites abuse. We must not allow television programs to become Trojan horses, carrying messages that would otherwise be criticized by the public or even deemed illegal. Manufacturers of alcohol, tobacco, and junk food, as well as other industries, have all exploited the lack of regulation concerning product integration.

For youth, the implications are profound. But for all citizens, current practices are inconsistent with democratic principles. In a democratic society, public response is a necessary counterbalance to commercial speech. When the source of these commercial messages – and even the message itself – is hidden, the public cannot fulfill its role.

For all these reasons, we believe a Notice of Proposed Rulemaking (NPRM) is the appropriate procedure. This flexible process can lead to changes to existing rules, new rules, or no rule-making at all. By contrast, a Notice of Inquiry (NOI) can identify a problem, *but cannot remedy it*. If, as Congressmen Markey and Waxman note, current practices are “unfair and deceptive,” then failing to remedy them in a timely manner would inflict undue harm on the American people, including youth, and lead to greater entrenchment and financial dependence on those very misleading practices. Further, failure to include cable/satellite television in the NPRM and to apply sponsorship identification rules uniformly would create a *sanctuary for unfair and deceptive practices*.

In 2003, Commercial Alert filed a petition on product placement, but the FCC has not responded. Since then, there has been growing concern, from writers who are forced to include advertising in their scripts to citizens who have voiced complaints at recent FCC meetings. Action on this issue is long overdue. Therefore, we urge the Commission to adopt an NPRM on product placement/integration, and to commence the procedure without delay. We look forward to participating in this important process.

Sincerely,

Action Coalition for Media Education
Alliance for Childhood
The Benton Foundation
Campaign for a Commercial-Free Childhood
Center for a New American Dream
Center for SCREEN TIME Awareness
Children Now
Commercial Alert
Common Sense Media
Concerned Educators Allied for a Safe Environment
Dads and Daughters
Free Press
Healthy Media Choices
Kids Can Make a Difference
Marin Institute
Obligation, Inc.
Office of Communication of the United Church of Christ, Inc.

Parents for Ethical Marketing
Parents Television Council
Public Citizen
Shaping Youth
Teachers Resisting Unhealthy Children's Entertainment
The Praxis Project

cc: Commissioner Michael J. Copps
Commissioner Jonathan S. Adelstein
Commissioner Deborah Taylor Tate
Commissioner Robert McDowell