

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554**

In the Matter of)	
)	
TVOMB Television Ratings System)	MB Docket No. 19-41
Public Notice)	

REPLY COMMENTS OF FREE PRESS

I. Introduction

Free Press submits these reply comments in response to the Federal Communications Commission’s (“Commission” or “FCC”) notice published on April 22, 2026, seeking public comment on the Television Oversight Monitoring Board’s (“TVOMB” or “OMB”) parental rating system guidelines.¹ The *Notice* generated significant public response, with over 37,000 comments submitted; and according to commenters such as the ACLU, its issuance “suggests the Commission is considering a more interventionist role in TV ratings.”²

Such an interventionist role is firmly prohibited under the Telecommunications Act of 1996, and Chairman Brendan Carr’s attempts to shoehorn one raises grave First Amendment concerns. Carr’s true censorial intentions here are borne out by commenters who support “empowering parents” as a means to silence LGBTQ+ voices. In effect, the *Notice* is another means of weaponizing federal mechanisms to implement the Trump administration’s

¹ *FCC’s Media Bureau Seeks Comment on Further Empowering Parents to Protect Their Children And Make Informed Choices About the TV Programs Their Children Watch*, MB Docket No. 19-41, Public Notice, DA 26-392 (rel. Apr. 22, 2026) (“*Notice*”).

² ACLU Comments at 2. Unless otherwise indicated, all comments referenced herein are initial comments filed in MB Docket No. 19-41 on or about May 22, 2026.

discriminatory agenda, here apparently against what it has in other settings offensively and wrongly referred to as “gender ideology extremism.”³

II. The Commission Does Not Have Any Authority to Regulate or Monitor the Parental Guidelines Ratings System.

First, there is no ambiguity regarding the Federal Communications Commission’s role in the parental ratings guidelines: the agency has none. Even the initial comments filed in support of discriminatory government interference implicitly acknowledge this by omitting any assertion of the Commission’s legal authority to “empower parents.”⁴ Instead, they welcome “The FCC’s proposal to consider adding LGTBQ content to the TV rating system” as a “common-sense exercise of its authority.”⁵ Several other commenters agreed with Free Press’s assessment of the plain (and frankly, the only plausible) reading of the legislative text and statutory provisions that led to the creation of the voluntary ratings system.⁶ As our initial comments explained, Section 551 of the Telecommunications Act of 1996 (“Telecom Act”) clearly delineated a temporary and long since extinguished role for the FCC to develop a parental ratings system only if the video programming industry did not do so itself.⁷ The congressional conference committee report on

³ *Defending Women From Gender Ideology Extremism and Restoring Biological Truth to the Federal Government*, Exec. Order No. 14168, 90 Fed. Reg. 8615 (Jan. 30, 2025), <https://www.federalregister.gov/documents/2025/01/30/2025-02090/defending-women-from-gender-ideology-extremism-and-restoring-biological-truth-to-the-federal>.

⁴ *See generally* Senator Jim Banks Comments; Ethics and Public Policy Center Comments; Center for American Rights Comments (“CAR Comments”); MultiState Comments; National Religious Broadcasters Comments; Concerned Women for America Comments.

⁵ Senator Jim Banks Comments at 3.

⁶ *See, e.g.*, ACLU Comments at 5; National Women’s Law Center, MomsRising, PFLAG National Comments at 13; LGBT Tech, Public Knowledge, Chamber Of Progress, HTTP, and Hispanic Federation Comments at 2-3; TechFreedom Comments at 2.

⁷ Telecommunications Act of 1996, Pub. L. No. 104-104, 110 Stat. 56, § 551(e) (1996). “The amendment made by subsection (b) of this section shall take effect 1 year after the date of enactment of this Act, but only if the Commission determines, in consultation with appropriate public interest groups and interested individuals from the private sector, that distributors of video programming have not, by such date— (A) established voluntary rules for rating video programming that contains sexual, violent, or other indecent material about which parents should be informed before it is displayed to children, and such rules are acceptable to the Commission; and (B) agreed voluntarily to broadcast signals that contain ratings of such programming.” *Id.*

the Telecom Act reinforced this clear legislative mandate.⁸ The FCC itself recognized in 1998 that its prospective authority had been delayed by Congress to allow the industry to establish a ratings system, which is private and voluntary.⁹

Second, Section 551(e) does not grant the Commission any latent authority to regulate the parental ratings guidelines. Section 551(e) required the FCC to review the guidelines developed by the industry.¹⁰ The FCC solicited two separate rounds of public comment in 1997 on the industry's initial and revised parental guidelines.¹¹ The revised parental guidelines developed content warnings in addition to its ratings system for "sexual, violent, or indecent material about which parents should be informed prior to its display to children."¹² The Commission's report on the implementation of Section 551 noted that "[m]ost commenters urge the Commission to find that the *TV Parental Guidelines*, as revised, are acceptable."¹³ Any statutory authority granted to the Commission then "expired in March 1998, when the Commission found that the Guidelines satisfied Section 551 of the Telecommunications Act of 1996."¹⁴

Third, prior FCC inquiries into the television rating system were conducted pursuant to congressional mandates. Before the agency's current misadventure here, the most recent FCC inquiry in 2019 resulted from a congressional provision included in an omnibus bill.¹⁵ A separate inquiry in 2009 under the Obama Administration's FCC was conducted in response to a

⁸ S. Conf. Rep. No. 104-230, at 195. "...[t]he guidelines and recommended procedures for a rating system [in section 551 of the 1996 Act] are not rules and do not include requirements. They are intended to provide industry with a carefully considered and practical system for rating programs if industry does not develop such a system itself." (emphasis added).

⁹ *Implementation of Section 551 of the Telecommunications Act of 1996, Video Programming Ratings*, Report and Order, 13 FCC Rcd 8232, 8233, ¶ 4 & n.10 (1998) ("*FCC Implementation Report*").

¹⁰ *Id.* ¶ 2.

¹¹ *Id.* at 8234, ¶ 5.

¹² *Id.* at 8232, ¶ 1.

¹³ *Id.* at 8240, ¶ 15.

¹⁴ National Association of Broadcasters, NTCA – The Internet & Television Association, and The Motion Picture Association of America, Joint Reply Comments on TV Parental Guidelines Report, MB Docket No. 19-41, at 8 (filed Mar. 19, 2019) ("*Joint Reply Comments*"), <https://www.nab.org/documents/filings/NAB-NCTA-MPAATVRatingsReply%20Comments3-19-19.pdf>.

¹⁵ See Free Press Comments at 5.

congressional directive, the Child Safety Viewing Act, as the Center for American Rights’ (“CAR”) reply comments recognize.¹⁶ CAR cites to a 2008 speech given by then-Commissioner Jonathan Adelstein to argue that Democrats unveiled their own “agenda to protect America’s children.”¹⁷ In fact, Adelstein’s comments extended from a House Commerce Committee request to the Commission to “study media violence and its impact on children.”¹⁸

For what it is worth, Adelstein’s remarks fit more squarely within Section 551’s language regarding “sexual, violent, or other indecent material,”¹⁹ and he at least recognized the constitutional limits that constrain the Commission’s work.²⁰ But nothing he said changes the agency’s statutory authority, or in this case, its lack thereof. Whatever unmoored policy prescriptions CAR may wish to inflict upon American families, it must know that speeches by individual commissioners (or even by this chairman) urging voluntary industry action are not the same thing as agency authority to make such changes, or even to request such action more formally and finally. Brendan Carr’s bully pulpit and bullying may be chillingly effective in influencing private sector behavior and capitulation, but they do not retrofit the Commission with authority that Congress never granted it. This *Notice* is not an act of good-faith inquiry responding to legitimate congressional concerns; instead, it is a dog whistle to promote anti-LGBTQ+ views favored by the Trump administration and a few commenters in this docket.

A. The Commission Has No Authority to Alter the Processes and Policies of the Oversight Monitoring Board.

¹⁶ Center for American Rights Reply Comments, MB Docket No. 19-41, at 9 (filed June 18, 2026).

¹⁷ *Id.* at 8 (quoting Remarks of Commissioner Jonathan S. Adelstein, *Stuck in the Mud: Time to Move an Agenda to Protect America’s Children*, Federal Communications Commission, at 1 (June 11, 2008), <https://docs.fcc.gov/public/attachments/DOC-282885A1.pdf>).

¹⁸ Remarks of Jonathan S. Adelstein, *Stuck in the Mud: Time to Move an Agenda to Protect America’s Children*, Federal Communications Commission 3 (June 11, 2008), <https://docs.fcc.gov/public/attachments/DOC-282885A1.pdf>.

¹⁹ Telecommunications Act of 1996, Pub. L. No. 104-104, 110 Stat. 56, § 551(b)(1) (1996).

²⁰ *See* Remarks of Commissioner Jonathan S. Adelstein, *Stuck in the Mud: Time to Move an Agenda to Protect America’s Children*, Federal Communications Commission, at 3.

Several comments urging discriminatory FCC interference nonetheless argue that the Commission should press TVOMB to adopt further public accountability and oversight measures.²¹ Such concerns must be taken up directly with TVOMB or with Congress. The Telecom Act did not grant the Commission any authority to weigh in on the processes of the OMB subsequent to the initial FCC review and approval of the ratings system, and that authority expired in 1998 as previously discussed. And any further role of the Commission in suggesting ratings for material would immediately invite First Amendment challenges.

The industry created the Oversight Monitoring Board to “ensure that the rating guidelines are applied accurately and consistently to television programming.”²² Industry comments submitted detail the structure of the OMB as well as the various processes available to parents to control content watched by their children and to submit complaints.²³ These comments also list efforts made to improve transparency, accuracy, and consistency subsequent to the 2019 congressional inquiry, including by TVOMB releasing annual reports.²⁴ The 2025 annual report found a continued “downward trend in ratings related-comments” since 2021, with only 11 comments submitted regarding the parental ratings system.²⁵

Should commenters desire changes to this system, TVOMB is the audience to hear these concerns, not the Commission. If parents do not know about TV ratings or do not understand TVOMB’s function, as one comment suggested,²⁶ the simple solution is to increase awareness of TVOMB and its public-comment procedures, not to invent a role for the federal government that is simply pretext to control content. For that is exactly what this exercise is intended to do:

²¹ See, e.g., MultiState Comments at 7; Concerned Women for America Comments at 4; National Religious Broadcasters Comments at 2.

²² *FCC Implementation Report*, 13 FCC Rcd at 8240, ¶ 10.

²³ See NCTA, MPAA, NAB Comments at 5-10.

²⁴ *Id.* at 12.

²⁵ TV Parental Guidelines Monitoring Board, *Annual Report 2025* at 7 (2025), https://www.tvguidelines.org/resources/TV_Parental_Guidelines_2025AnnualReport.pdf.

²⁶ Ethics and Public Policy Comment at 8.

impermissibly chill speech and ideas that are disfavored by the Trump administration, in favor of government impermissibly elevating other viewpoints pushed for religious reasons.²⁷

III. The Commission’s “Inquiry” Is Part of The Administration’s Agenda to Erase Diverse Voices.

While CAR suggests that “the Constitution does not apply to the Oversight Monitoring Board (OMB) because the board is a creature of self-regulation rather than government regulation,”²⁸ FCC interference in or coercion of that private ratings system immediately implicates the First Amendment. Proponents of discriminatory LGBTQ+ content warnings cannot simultaneously argue the independence of this private entity for constitutional purposes while inviting federal intervention to override that independence. The comments opposing such unauthorized intervention, from an array of civil liberties organizations, outline the numerous First Amendment issues implicated. Those include the vagueness of “gender identity” as referenced in the *Notice*,²⁹ concerns about jawboning or coercion of a private actor,³⁰ and content-based and viewpoint discrimination subject to strict scrutiny.³¹

Above all, these organizations agreed with Free Press’s initial comments explaining that the primary intent and impact of the Commission’s *Notice* is to chill content featuring any

²⁷ See CAR Comments at 4 (citing *Mahmoud v. Taylor*, 606 U.S. 522, 554 (2025), which states that same-sex or transgender themes may “impose on children a set of values and beliefs that are ‘hostile’ to their parents’ religious beliefs”). While CAR desperately seeks support from this precedent here, it is patently obvious that striking down the curriculum of a public school is a different proposition from a constitutional standpoint than imposing an FCC mandate about television ratings. In the case of a public school, the Court is assessing the viewpoints and religious beliefs allegedly imposed on private citizens by a state actor. CAR would stand that precedent on its head, by suggesting that it means the government may dictate the viewpoints expressed and content aired by private actors instead.

²⁸ CAR Comments at 5.

²⁹ ACLU Comments at 9-11; Future of Free Speech Comments at 2-3.

³⁰ Future of Free Speech Comments at 5-6; ACLU Comments at 8-9; TechFreedom Comments at 6.

³¹ TechFreedom Comments at 3; National Women’s Law Center, MomsRising, PFLAG National Comments at 15; ACLU Comments at 6-7; Future of Free Speech Comments at 3-7 (“Parents who wish to avoid any specific category of content already have robust tools, none of which require the government to single out particular subjects for warning. Every major streaming platform offers granular parental controls, kid profiles, and per-title restrictions. Independent review services, including Common Sense Media, Plugged In, and the Parents Television and Media Council, among others, provide detailed, viewpoint-diverse content descriptions for individual parents to consult. The existence of these private, viewpoint-neutral tools is fatal to any claim that government-encouraged labeling of disfavored content is necessary.”) (citations omitted).

LGBTQ+ storyline and to silence the voices of their creators—making this *Notice* a fishing expedition for viewpoint discrimination.³² For years, content creators in LGBTQ+ communities have sought greater representation and inclusion within media to portray their lived experiences and history.³³ They have worked to overcome labeling as “alternative lifestyles”³⁴ to show that queer identities have always been part of our social fabric. It is their success in promoting LGBTQ+ acceptance³⁵ that this “inquiry” targets, part of a broader censorial agenda intended to erase diverse voices from the American narrative.

Comments submitted in favor of such discriminatory FCC interference do nothing to hide their views opposing all LGBTQ+ representation and equality. While the *Notice* singled out trans and non-binary themes specifically,³⁶ these kinds of comments take broader aim at LGBTQ+ inclusion, including recently quieter cultural fault lines such as same-sex marriage. For example, CAR’s initial comments seek to “establish the widespread prevalence of LGBTQ+ characters on programs participating in the OMB’s system, with a particular focus on children’s programs on broadcast television.”³⁷ CAR singles out PBS and Disney in particular—broadcasters that the Trump administration has defunded and is attempting to de-license, respectively. The CAR comments suggest that these two broadcasters are “especially active in promoting controversial content in children’s programming,” by listing episodes of children’s programs such as *Arthur*,

³² See, e.g., *Rosenberger v. Rectors and Visitors of the University of Virginia*, 515 U.S. 819 (1995) (“When the government targets not subject matter but particular views taken by speakers on a subject, the violation of the First Amendment is all the more blatant. Viewpoint discrimination is thus an egregious form of content discrimination. The government must abstain from regulating speech when the specific motivating ideology or the opinion or perspective of the speaker is the rationale for the restriction.”).

³³ See National Women’s Law Center, MomsRising, PFLAG National Comments at 10-12.

³⁴ Ethics and Public Policy Comments at 10.

³⁵ See National Women’s Law Center, MomsRising, PFLAG National Comments at 5-6 (“The FCC does not cite to any evidence of [significant parental concern], and these unsupported insinuations gloss over the consistent research that shows most parents favor diversity and inclusion in children’s television programming and have no interest in stigmatizing trans people. On the contrary, the Guidelines are more popular than ever and data shows strong public support for LGBTQ representation on TV. A strong majority of 78% of non-LGBTQ Americans believe everyone deserves to feel represented in media content such as TV shows.”) (citations omitted).

³⁶ *Notice* at 2.

³⁷ CAR Comments at 8.

Clifford the Big Red Dog, and *Work It Out Wombats!*, which all feature same-sex couples getting married or raising children, or Disney shows which have received recognition from GLAAD.³⁸

Though CAR's comments wade into glib and unsound medical views,³⁹ the group's true aim is suppressing LGBTQ+ representation writ large. Marriage equality progress at the U.S. Supreme Court level is barely a decade old, but Chairman Carr's *Notice* opens the door to those wishing to roll back that progress, much as the administration has used attacks on Diversity, Equity, and Inclusion to erase Black history about slavery and racism from public exhibitions.⁴⁰ Censorship has been a key tool of the administration's agenda,⁴¹ and Chairman Carr once again demonstrates his eagerness to please by weaponizing the Commission's procedural mechanisms to serve President Trump's authoritarianism and bigotry.

IV. Conclusion

Free Press strongly opposes the Commission's effort to silence LGBTQ+ voices through a manufactured process that makes a mockery of the agency's mandate. As our initial comments recommended, the agency should abandon this contrived and morally repugnant exercise, as it has no authority to suggest any changes to the TV ratings system.

Respectfully submitted,

³⁸ *Id.* at 8-12.

³⁹ *See id.* at 23.

⁴⁰ Trey Walk, *The Trump Administration's Assaults on Black History*, Human Rights Watch (Apr. 10, 2025), <https://www.hrw.org/news/2025/04/10/trump-administrations-assaults-black-history>.

⁴¹ *See* Nora Benavidez, *Chokehold: Donald Trump's War on Free Speech & the Need for Systemic Resistance*, Free Press (Dec. 2025)

<https://www.freepress.net/download/chokehold-donald-trumps-war-free-speech-and-need-systemic-resistance>; *see also* *Am. Ass'n of Univ. Professors v. Rubio*, 802 F. Supp. 3d 120 (D. Mass. 2025) (upholding noncitizen students' free speech rights against the Trump administration's ideological deportation agenda; *Chicago Headline Club v. Noem*, 810 F. Supp. 3d 842 (N.D. Ill. 2025) (finding the administration's use of excessive force against protesters and journalists had already had a chilling effect on First Amendment-protected activities) (vacated on other grounds).

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June 22, 2026