

June 22, 2026

Submitted via ECFS (<https://www.fcc.gov/ecfs>)

Marlene H. Dortch
Secretary
Federal Communications Commission
45 L Street NE
Washington, DC 20554

RE: Reply Comment regarding FCC’s Public Notice on “Further Empowering Parents to Protect their Children and Make Informed Choices About the TV Programs Their Children Watch,” MB Docket No. 19-41

Dear Secretary Dortch:

My name is Eric Kniffin. I am a scholar with Ethics and Public Policy Center’s (EPPC) Administrative State Accountability Project. I write to offer a reply comment in response to the Federal Communications Commission’s (FCC) Public Notice, “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” (“Notice”).¹ The FCC’s Notice seeks public comment on the composition, balance, and accountability of the TV Parental Guidelines Monitoring Board (also referred to by the FCC as the “TV Oversight Management Board” or TVOMB) and on the accuracy of TV ratings.

I applaud the FCC for seeking to empower parents to protect their children and make informed choices when it comes to media. As we explain below, the Board is not sufficiently balanced—it is stacked with industry insiders and pro-gender ideology advocacy groups. Also, the current oversight and ratings system is inadequate. To remedy these issues, I support the inclusion of parents, people of faith, and faith-based media on the Board and urge the FCC to strengthen the media ratings by ensuring that the ratings apply to specific episodes, not just programs or series, and by including warnings about LGBTQ themes and gender ideology content. These recommendations align with Trump Administration priorities to protect parental rights, protect children, fight gender ideology, and promote religious liberty.

This comment offers three responses to themes seen across many comments submitted in opposition to the Commission’s efforts to understand whether the current TV ratings system gives parents adequate information about gender ideology programming. Finally, I offer a broader comment about the diversity found in the public comments and how that itself proves the current TV ratings board inadequate.

¹ 91 Fed. Reg. 23990 (May 4, 2026), <https://www.federalregister.gov/d/2026-08624>.

I. The Commission has authority to act and a duty to follow on the important questions posed in its Notice.

I begin by responding to claims made by several commenters who contended that the Commission lacks any statutory authority to act on the concerns raised in the Notice:

- The joint filing from **LGBT Tech, Public Knowledge, Chamber of Progress**, and allied organizations makes the same argument in more detail, observing that § 303w —“the Only Provision Congress Wrote to Address Ratings Substance”—“never took effect” because the industry satisfied the statutory trigger in 1998, and that “[t]reating [the] ‘acceptable’ [finding] as an ongoing standard would require inserting words Congress did not write.”²
- **TechFreedom** states that “[t]he Commission has no authority to ask such a question, let alone do anything about it.” It claims that the Consolidated Appropriations Act of 2019 “directed a one-time report and conferred no new authority” and urges the Commission to “terminate this unlawful inquiry.”³
- The joint industry commenters—**MPA, NAB, and NCTA**—similarly state that “Congress did not establish a continuing regulatory role for the Commission.”⁴

These objections are correct as far as they go. EPPC does not dispute that § 303w never took effect, that the Commission’s rulemaking authority under § 551(b) lapsed in March 1998, and that the 2019 Act authorized a report rather than new regulations. But opponents’ argument defeats a strawman. No one is asking the Commission to mandate a ratings category by regulation, rewrite the TV Parental Guidelines by rule, or penalize any programmer for a particular rating decision. The question here is whether the Commission can, as described in the Notice, gather feedback from the general public and use that feedback to *assess* whether the voluntary system Congress directed it to oversee is accurately serving the parents it was designed to protect and report on its conclusions. The Commission plainly can.

Start with the federal law that undergirds the FCC’s notice. As the FCC acknowledges, the TV ratings system is rooted in the Telecommunications Act of 1996, where Congress recognized that the “pervasive” presence of television programming in children’s lives “influences children’s perceptions of the values and behavior that are common and acceptable in society.”⁵ Consequently, “Congress then determined that parents should be provided with timely

² Comments of LGBT Tech, Public Knowledge, Chamber of Progress, HTTP – Hispanic Technology & Telecommunications Partnership & Hispanic Federation, MB Docket No. 19-41 (filed May 22, 2026), <https://www.fcc.gov/ecfs/document/10522661623022/1>.

³ TechFreedom Comment, MB Docket No. 19-41 (filed May 22, 2026), <https://www.fcc.gov/ecfs/document/10522197732579/1>.

⁴ Comments of Motion Picture Association, National Association of Broadcasters, and NCTA –The Internet & Television Association, MB Docket No. 19-41 (filed May 22, 2026), <https://www.fcc.gov/ecfs/document/10522159905248/1>.

⁵ *Id.* at 23991.

information about the nature of upcoming video programming and have the ability to block violent, sexual, or other programming that parents believe is harmful to their children.”⁶

Moreover, Congress believed that the process should involve “*parents*” and “*appropriate public interest groups*,” and that the process should be “*fairly balanced* in terms of political affiliation” and “the points of view represented.”⁷ While these comments were directed at a temporary advisory committee, and not the TV ratings system itself, I submit these criteria nonetheless represent Congress’ conviction that *America’s TV ratings system should represent and serve the American people, not media conglomerates and progressive causes*.

The Commission’s Notice also refers to the Consolidated Appropriations Act of 2019,⁸ which directed the Commission to report to the Committees on Appropriations of the House and Senate within ninety days “on the extent to which the rating system matches the video content that is being shown and the ability of the TV Parental Guidelines Oversight Monitoring Board to address public concerns.”⁹ This was not a throwaway rider. The directive was inserted “in lieu of Senate report language”¹⁰—meaning it replaced a Senate Appropriations Committee provision. The directive thus reflects a deliberate congressional judgment that the FCC had an ongoing accountability function with respect to the ratings system’s accuracy and the Board’s responsiveness.

As the Notice mentions,¹¹ FCC responded to this directive with a Public Notice issued on February 26, 2019, which solicited “comment on the accuracy of the television content rating system ... and the ability of ... the TV Parental Guidelines Oversight Monitoring Board[] to oversee the ratings system and address public concerns.”¹² FCC received over 1,700 public comments, which FCC reviewed and analyzed in preparing its May 2019 initial report.¹³ But Congress’ 2019 mandate was not satisfied by a single snapshot: Congress asked FCC whether the rating system *matches* the content being shown, and whether the Board *can address* public concerns. Both questions remain open.

The Commission’s opponents argue that the 2019 Act “directed a one-time report and conferred no new authority.” But that argument mistakes the form of the mandate for its

⁶ *Id.*

⁷ Telecommunications Act of 1996, Pub. L. No. 104-104, § 551(b)(2), 110 Stat. 56, 140 (1996) (emphases added).

⁸ Notice at 3.

⁹ Consolidated Appropriations Act, 2019, Pub. L. No. 116-6, Joint Explanatory Statement, Div. D, Title V, at 432 (2019), <https://www.govinfo.gov/content/pkg/CPRT-116HPRT35160/pdf/CPRT-116HPRT35160.pdf>.

¹⁰ *Id.*

¹¹ Notice at 3.

¹² Public Notice, Media Bureau Seeks Comment on the TV Ratings System and the Oversight Monitoring Board, MB Docket No. 19-41, DA 19-120 (rel. Feb. 26, 2019), <https://docs.fcc.gov/public/attachments/DA-19-120A1.pdf>.

¹³ Implementation of the Consolidated Appropriations Act of 2019; Report on Television Ratings and the Oversight Monitoring Board, Report, 34 FCC Record 3205, DA 19-423 (rel. May 16, 2019), https://docs.fcc.gov/public/attachments/DA-19-423A1_Rcd.pdf.

substance. Congress did not ask the FCC to file a report and forget the subject. It asked whether the system works and whether parents can get relief when it doesn't.

The Consolidated Appropriations Act of 2019 directed the Commission to assess two specific things: the *accuracy* of the TV Parental Guidelines, and the *operations* of the Oversight Monitoring Board. Congress did not declare that the Commission's 2019 report was the final word on either question. The accuracy of a ratings system is not a fact fixed forever at a single point in time—it is a continuing condition that changes as programming changes, as cultural content shifts, and as the Board's composition and complaint-handling practices evolve or stagnate.

FCC's May 4, 2026 Notice is a natural successor to its notice from February 2019. It raises issues that are consistent with Congress' 2019 mandate and solicits relevant public input. Today, just as in 2019, the Commission has before it a record of public comment that addresses both of the questions Congress directed at the Commission. And just as in 2019, the Commission has both the authority and the obligation to issue a report that answers these questions. Closing this docket without a formal accuracy finding would be a waste, a lost opportunity, and a failure to discharge the mandate Congress gave it.

This is a modest ask. EPPC's comment and those raising similar concerns do not require the Commission to assert authority it does not have. My colleagues and I are simply asking the FCC to use the authority it does have: to take the public's concerns into account, to see clearly what the record shows, to say plainly what it has found, and to give Congress the information and the predicate it needs to act. That is precisely the role Congress assigned the Commission in 2019. It is the role parents across the country are asking it to play now.

II. Neither the TV ratings system nor the Commission's effort to give parents helpful notice about gender ideology violates the First Amendment.

Several commenters opposing the Commission's Notice have lodged a cluster of First Amendment objections that, while superficially legalistic, largely reduce to the same substantive claim: that any effort to ensure parents are informed when children's programming contains gender identity content is presumptively unconstitutional viewpoint discrimination. For example:

- **TechFreedom** argues that the Notice's focus on gender identity themes is a content-based, viewpoint-discriminatory regulation subject to strict scrutiny under *Reed v. Town of Gilbert*, and that because gender identity content is not obscene, the government may not require any labeling of it whatsoever.¹⁴
- **The Future of Free Speech** contends that the Notice is unconstitutionally vague for failing to define the scope of "gender identity themes," that singling out that subject for a content descriptor while leaving "heteronormative" programming unlabeled is viewpoint targeting forbidden by the First Amendment, and that any government pressure on the

¹⁴ TechFreedom Comment, MB Docket No. 19-41 (filed May 22, 2026), <https://www.fcc.gov/ecfs/document/10522197732579/1>.

TVOMB—a nominally private actor—to adopt such a descriptor constitutes unconstitutional coercive speech regulation under *NRA v. Vullo*.¹⁵

- **LGBT Tech et al.** further argues that requiring programmers to apply any government-supervised classification to their own expressive work constitutes compelled speech that cannot be justified under *Zauderer v. Office of Disciplinary Counsel*, which applies only to purely factual and uncontroversial commercial disclosures—a standard that contested characterizations of gender identity content cannot meet.¹⁶

Three advocacy-organization comments—from **HRC**,¹⁷ **GLAAD**,¹⁸ and a joint submission by the **National Women’s Law Center**, **MomsRising**, and **PFLAG**¹⁹—amplify these constitutional themes with broader policy claims. They argue that singling out transgender and non-binary characters for heightened disclosure is the functional equivalent of treating their mere existence as indecent, echoing historical moral codes that suppressed interracial relationships and LGBTQ identity under the pretext of protecting audiences. They argue the proposed approach would impose an impermissible content-based restriction by creating a government-endorsed label that identifies *who appears on screen* rather than *what occurs on screen*, thereby conveying a stigmatizing government message about a discrete class of people.

These advocacy organizations advance these arguments alongside the dubious empirical claim that parents are broadly satisfied with the existing ratings system and do not want more information through the TV ratings system. This claim rests almost entirely on the TVOMB’s own self-commissioned surveys, whose credibility EPPC has already addressed in its initial comment.²⁰

These comments invoke a parade of First Amendment doctrines in service of two audacious propositions: that parents have no constitutional right to know when their young children’s programming actively promotes gender ideology, and even if they did, the government is powerless to help them find out. But, as shown below, these claims turn the First Amendment on its head. The Commission’s interest in this proceeding is not suppression of speech—it is disclosure. And disclosure requirements, which is all that is at issue here, do not raise the constitutional concerns these commenters allege. To the contrary, the proposed disclosure serves

¹⁵ The Future of Free Speech Comment, MB Docket No. 19-41 (filed May 21, 2026), <https://www.fcc.gov/ecfs/document/1052129597153/1>.

¹⁶ Comments of LGBT Tech, Public Knowledge, Chamber of Progress, HTTP – Hispanic Technology & Telecommunications Partnership & Hispanic Federation, MB Docket No. 19-41 (filed May 22, 2026), <https://www.fcc.gov/ecfs/document/10522661623022/1>.

¹⁷ Comments of HRC et al., MB Docket No. 19-41 (filed May 22, 2026), <https://www.fcc.gov/ecfs/document/105212364206701/1>.

¹⁸ GLAAD Comment, MB Docket No. 19-41 (filed May 22, 2026), <https://www.fcc.gov/ecfs/document/10522117908539/1>.

¹⁹ Comments of the National Women’s Law Center, MomsRising, and PFLAG National, MB Docket No. 19-41, <https://www.fcc.gov/ecfs/document/105220051611776/1>.

²⁰ EPPC Comment at 8-9, MB Docket No. 19-41 (May 22, 2026), <https://media.eppc.org/2026/05/EPPC-Comment-on-FCC-Notice-on-TV-Parental-Guidelines.pdf>.

the unique responsibilities that parents have, responsibilities the First Amendment honors and respects.²¹

The *Reed v. Town of Gilbert*²² strict scrutiny argument collapses under its own weight. *Reed* concerns laws that restrict or punish speech based on its content. But the proposed content descriptor in the Notice would not restrict any speech. No programmer would be prohibited from airing gender ideology content for children, and no viewer would be blocked from watching it. The descriptor would simply empower parents, arming them with better information so they can make informed choices about the shows their children watch.

Nothing in TechFreedom’s analysis explains why the proposed gender ideology descriptor in the Notice has a different standing under *Reed* than longstanding aspects of the TV ratings system. The entire architecture of the TV ratings system is premised on the constitutional legitimacy of content-based *disclosure* to empower parental decision-making, not content-based *restriction* of programming.²³ If the *Reed* argument were correct, the V (violence), S (sexual situations), and D (suggestive dialogue) descriptors that have existed without constitutional challenge for nearly thirty years would all be equally suspect.²⁴ None of the opposing commenters suggest that those descriptors violate the First Amendment. Their silence on that point is telling.

The compelled speech argument fares no better. The cases these commenters cite—*NIFLA v. Becerra* and *Zauderer*—concern instances where the government was compelling private parties to deliver the *government’s own ideological message* to unwilling audiences.²⁵ But that is not what content descriptors do. A rating that notifies parents of gender identity themes conveys factual information about program content, not a government viewpoint about that content’s propriety. The Supreme Court has consistently distinguished between compelled ideological confessions (which the First Amendment prohibits), and compelled factual disclosures in commercial or regulatory contexts (which it permits).²⁶

The opposing commenters claim this distinction does not apply because whether a program contains gender identity themes is not a “purely factual” matter because there will be

²¹ See Telecommunications Act of 1996, § 551(a)(8)—Congress’s express finding that there is “a compelling governmental interest in empowering parents to limit the negative influences of video programming that is harmful to children.”

²² *Reed v. Town of Gilbert*, 576 U.S. 155 (2015).

²³ See Telecommunications Act of 1996, § 551; Implementation of Section 551 of the Telecommunications Act of 1996, Video Programming Ratings, Report and Order, 13 FCC Record 8232 (1998) (approving the voluntary ratings system on the express basis that it serves parents’ informational interests).

²⁴ TV Parental Guidelines Monitoring Board, *About Us*, <http://www.tvguidelines.org/aboutUs.html>, (identifying the existing content descriptors).

²⁵ *Nat’l Inst. of Family & Life Advocates v. Becerra*, 585 U.S. 755 (2018); *Zauderer v. Off. of Disciplinary Counsel*, 471 U.S. 626 (1985).

²⁶ *Zauderer*, 471 U.S. at 651 (permitting compelled disclosure of “purely factual and uncontroversial information”); see also *American Meat Inst. v. USDA*, 760 F.3d 18 (D.C. Cir. 2014) (en banc) (applying *Zauderer* to factual disclosure requirements in a regulatory context).

edge case where the need for labeling will be “contested.”²⁷ But, again, these commenters fail to acknowledge that this observation applies equally to existing, longstanding content descriptors. Whether a program contains “suggestive dialogue” or “fantasy violence” is equally contestable. Yet no one is contending that longstanding aspects of the TV ratings system constitute compelled speech.

The *Vullo* coercion argument²⁸ is the weakest of the three. *NRA v. Vullo* involved state officials who used their regulatory power to punish a private organization for its political speech by threatening its business partners.²⁹ But FCC here has done nothing of the sort: it has merely opened a public notice-and-comment proceeding—the most transparent, legally structured, and constitutionally scrupulous form of government inquiry available—and invited the public, including the commenters lodging this accusation, to weigh in. The suggestion that a formal notice-and-comment proceeding is the functional equivalent of a government official covertly threatening private companies to suppress disfavored speech is not a serious legal argument.

The opposing commenters’ heavy reliance on **the historical Production Code and mid-century broadcast standards** also deserves a direct response.³⁰ Those regimes are inapposite for one fundamental reason: they operated to *suppress* LGBTQ representation from public view entirely. But the Commission is proposing something categorically different. It is not asking whether gender ideology content should be banned, but whether parents should be *told* it is present so they can make their own choices. If anything, the lesson of those historical episodes is that information asymmetries between content producers and parents harm families; transparency is the remedy, not the problem. The opponents’ premise—that parents have a right to decide what their children watch—is the strongest possible argument *for* a content descriptor, not against one.³¹

This brings me to one final observation about the Notice’s proposed disclosure regarding gender identity themes and longstanding disclosures about explicit language, suggestive language, and violent programming. I am aware of no advocacy group that believes anyone should be watching more of such content. I have never heard it suggested that anyone uses the TV ratings system to affirmatively seek out vulgar language and graphic violence. But we know that this is the precise purpose of existing LGBTQ filters employed by popular streaming platforms. Netflix,³² Amazon,³³ and Hulu³⁴ have “LGBTQ” themed movie and TV categories,

²⁷ See TechFreedom Comment at 5; Future of Free Speech Comment at 5.

²⁸ See TechFreedom Comment at 6–7; Future of Free Speech Comment at 5–6.

²⁹ *Nat’l Rifle Ass’n of Am. v. Vullo*, 602 U.S. 175, 189–91 (2024).

³⁰ See LGBT Tech et al. Comment at 8–12; HRC et al. Comment at 4–5.

³¹ Telecommunications Act of 1996, § 551(a)(8); HRC et al. Comment at 2 (“parents and guardians, not government regulators, should be the ones deciding what their children are able to watch”).

³² See *Watch LGBTQ Movies*, Netflix, <https://www.netflix.com/browse/genre/5977> (last visited June 22, 2026); *Gay & Lesbian Movies & TV*, Netflix, <https://www.netflix.com/browse/genre/100010> (last visited June 22, 2026).

³³ See *Prime Video: LGBTQ+*, Amazon Prime Video, <https://www.primevideo.com/gp/video/genre/lgbtq> (last visited June 22, 2026).

³⁴ See *PRIDE*, Hulu, <https://www.hulu.com/hub/lgbtq> (last visited June 22, 2026); *PRIDE Movies*, Hulu, <https://www.hulu.com/hub/lgbtq-movies> (last visited June 22, 2026).

categories that are ostensibly created to help consumers identify the content they wish to consume. Given this background, there is even less reason to suspect that a gender identity disclosure would suppress speech than longstanding, noncontroversial disclosures related to explicit language, suggestive language, and violent programming.

One might imagine these commenters pushing back, claiming that some people want the TV ratings system to adopt a gender identity disclosure to help parents steer children away from such content, and some parents will use it that way. But that is not remarkable. All movie and TV categories allow consumers to identify the content they wish to consume or avoid. Netflix, Amazon, and Hulu surely understand that their LGBTQ categories are used by different parents in different ways. Some parents will steer their children toward “LGBTQ”-labeled programming, while other parents will seek to protect their children from such programming.

Similarly, consider websites that categorize businesses according to their owners’ race, sex, or sexual-minority status. BuyBlack.org is a database of “110,000+ Black-owned businesses across the U.S.” to enable people to “[f]ind, support, and connect with Black entrepreneurs” near them.³⁵ Similarly, Women Owned has a directory of women-owned brands to “support[] female entrepreneurs and those who do business with them by raising awareness for why, where and how to buy Women Owned.”³⁶ The app Everywhere is Queer hosts “the largest directory of queer-owned businesses,” featuring 20,000+ organizations, to create “safer, more visible spaces for the LGBTQ+ and ally community everywhere.”³⁷ Again, it is no secret that not all people will use these online databases the same way. But the potential for mixed responses has not stopped those supporting the communities from touting business owners’ demographics.

The same is true here. Content rating is just factual information that allows consumers and parents to make informed decisions. Providing information to parents about gender identity themes does not dictate consumers’ responses. Some will look to the rating to avoid the content while others will look to the content to intentionally consume the content. In both cases, consumers are informed to make their own decision for themselves and their children. The rating and content transparency does not impinge on the free speech of those creating the content or consumers who remain free to consume the content if they so choose.

III. The Commission may and should consider whether the TV ratings system reflects the Trump Administration’s understanding of the human person and its concerns about gender ideology.

Finally, some commenters argue that pro-LGBT content doesn’t warrant a warning label because LGBTQ people are a normal part of the human experience and that such content is simply depicting reality. This argument proves too much and misses the point. The Notice does not, as I understand it, seek to label any content that incidentally includes transgender characters. Rather, it seems that the question is whether parents are given adequate notice about content that

³⁵ *National Directory of Black-Owned Businesses*, BuyBlack, <https://www.buyblack.org/> (last visited June 22, 2026).

³⁶ *About Us*, Women Owned, <https://buywomenowned.com/about-us/> (last visited June 22, 2026).

³⁷ *Everywhere Is Queer*, <https://www.everywhereisqueer.com/> (last visited June 22, 2026).

affirmatively teaches gender ideology as true or good, that teaches children that boys can become girls, or that a person’s “gender identity” overrides the biological reality of their sex.

Gender ideology is not neutral—it is a movement that makes specific and contested claims about the nature of the human person. It isn’t fearmongering to note that activists have been pushing hard in recent years to expose children to gender ideology. And it is not unreasonable for parents to have concerns about, and to want to be given adequate notice about, these efforts.

All of these issues were present in *Mahmoud v. Taylor*,³⁸ which the Supreme Court decided in 2025. The case revolved around a public school district’s decision to introduce 13 “LGBTQ+ inclusive” picture books into its elementary school curriculum.³⁹ The school district’s “Critical Selection Repertoire” sought to identify books that “disrupted” “heteronormativity” and “cisnormativity.”⁴⁰ As EPPC noted in its amicus brief in *Mahmoud*, the curriculum at issue “teaches impressionable elementary school children—those young enough to be read to from a picture book—that if a boy *says* he is girl, then he *is* a girl, and if a girl *says* she is a boy, then she *is* a boy.”⁴¹ The curriculum “is not just promoting inclusion and diversity. It is endeavoring to teach as true an ideological belief system about what it means to be human.”⁴² As my colleagues and I noted in our initial comment, the Supreme Court recognized the significance of these claims, the legitimacy of parents’ concerns, and government’s duty to give parents reasonable notice so that they could make important decisions about their children’s upbringing.⁴³

The commenters’ “just people” argument here is nearly identical to the school district’s defense in *Mahmoud*, where the school board claimed that the challenged curriculum merely “creates and normalizes a fully inclusive environment for all students,” helping them “empathize, connect, and collaborate” with diverse peers.⁴⁴ But as EPPC argued in its *Mahmoud* amicus brief, that undersold what the curriculum was really doing: “the Board’s curriculum teaches children that gender ideology is true, good, and loving. It sends a clear message that those who oppose this anthropology, for personal or religious reasons, are ignorant, bigoted, and even hateful.”⁴⁵

The Commission should consider whether the same critique applies to children’s programming that includes gender identity themes. The Commission should consider what the

³⁸ *Mahmoud v. Taylor*, 606 U.S. 522, 533 (2025).

³⁹ *Id.* at 533.

⁴⁰ *Id.*

⁴¹ Brief of Ethics and Public Policy Center as *Amicus Curiae* in Support of Petitioners, *Mahmoud v. Taylor*, No. 24-297 at 30 (U.S. Mar. 10, 2025) (hereinafter, “EPPC Amicus Br.”), <https://media.eppc.org/2025/03/EPPC-Amicus-Mahmoud-3-10-25.pdf>.

⁴² *Id.* at 31.

⁴³ EPPC Comment at 5 (citing *Mahmoud*, 606 U.S. at 547, 550).

⁴⁴ EPPC Amicus Br. at 4-5.

⁴⁵ *Id.* at 5.

public has said about such programming in the public comments it has received and should look at examples of such programming, including the episodes we identified in our public comment.⁴⁶

Reviewing children’s programming to see whether it advances gender ideology is an important task. As EPPC noted in its *Mahmoud* amicus brief, gender ideology is far from neutral as it teaches as true a radical anthropology, a theory of what it means to be human.⁴⁷ As Justice Blacklock of the Texas Supreme Court observed in *State v. Loe*, there are “two irreconcilably conflicting visions of the human person” at stake in these debates.⁴⁸ The first—the Traditional Vision—holds that “a boy is a boy, a girl is a girl, and neither feelings and desires nor drugs and surgery can change this immutable genetic truth.” The second—the Transgender Vision—holds that a person’s inwardly-felt gender identity can diverge from and take priority over biological sex.

A TV ratings system that declines to flag content advancing the Transgender Vision is not being neutral—it is silently endorsing it. As EPPC scholars have argued, every government agency “with an important mission requires it to have a working theory over what a human being is and what human flourishing entails.”⁴⁹ Telling children that boys can become girls is not a neutral act; it is a particular and contested anthropological claim.

The Commission should also take into account that the Trump Administration has already concluded that gender ideology is based on a false anthropology. The HHS guidance document, *Defining Sex*, states that “[a] person’s sex is unchangeable and determined by objective biology” and that “[r]estoring biological truth to the Federal government is critical to scientific inquiry, public safety, morale, and trust in government itself.”⁵⁰ The federal government has thus already taken a position on this anthropological question—and it is the Traditional Vision, not the Transgender Vision, that reflects official U.S. policy.

⁴⁶ EPPC Comment at 11-13.

⁴⁷ EPPC Amicus Br. at 4-20.

⁴⁸ *State v. Loe*, 692 S.W.3d 215, 239–40 (Tex. 2024) (Blacklock, J., concurring). The full passage reads: “There are two irreconcilably conflicting visions of what it means to be human at stake in these debates. The first vision—call it the Traditional Vision—holds that a boy is a boy, a girl is a girl, and neither feelings and desires nor drugs and surgery can change this immutable genetic truth, which binds us all. . . . The second vision—call it the Transgender Vision—holds that we all have a sex assigned at birth, which usually corresponds to our physical traits but which may or may not correspond to our inwardly felt or outwardly expressed gender identity.” *Id.* at 239.

⁴⁹ See Eric Kniffin, Rachel N. Morrison & Mary Rice Hasson, EPPC Comment on HHS Proposed Rule, Patient Protection and Affordable Care Act, Marketplace Integrity and Affordability, RIN 0938-AV61, at 14 (Apr. 11, 2025), <https://media.eppc.org/2025/04/EPPC-Comment-HHS-PPACA-Markeplace-Integrity-rev2.pdf> (“HHS’s critical mission requires it to have a working theory over what a human being is and what human flourishing entails.”)

⁵⁰ HHS, *Defining Sex: Guidance for Federal Agencies, External Partners, and the Public Implementing Executive Order 14168, Defending Women from Gender Ideology Extremism and Restoring Biological Truth to the Federal Government*, at 1 (Feb. 19, 2025), <https://womenshealth.gov/sites/default/files/images/2025/2.19.25%20Defining%20Sex%20Guidance%20for%20Federal%20Agencies%2C%20External%20Partners%2C%20and%20the%20Public%20FINAL.pdf> [hereinafter *HHS Defining Sex Guidance*].

The Trump Administration has not merely expressed skepticism about gender ideology; it has affirmatively determined, across multiple executive orders, that gender ideology harms children:

- Executive Order 14168, *Defending Women from Gender Ideology Extremism and Restoring Biological Truth to the Federal Government* declares that gender ideology involves a “false claim” about sex and that it “fundamentally attacks” the biological truth of what men and women are.⁵¹
- Executive Order 14187, *Protecting Children from Chemical and Surgical Mutilation*, states that so-called gender-affirming care involves “maiming and sterilizing children on the basis of a radical and false claim” that a child’s sex can be changed.⁵²
- Executive Order 14190, *Ending Radical Indoctrination in K–12 Schooling*, states that schools that are “steering children toward surgical and chemical mutilation” are imposing “harmful and false ideologies” on children.⁵³

These executive orders are just one part of the Trump Administration’s broader effort to promote the common good through bold actions to protect parental rights,⁵⁴ protect children,⁵⁵ fight gender ideology,⁵⁶ and promote religious liberty.⁵⁷

⁵¹ Exec. Order No. 14168, *Defending Women from Gender Ideology Extremism and Restoring Biological Truth to the Federal Government*, 90 Fed. Reg. 8615 (Jan. 20, 2025), <https://www.federalregister.gov/d/2025-02090>.

⁵² Exec. Order No. 14187, *Protecting Children from Chemical and Surgical Mutilation*, 90 Fed. Reg. 8771 (Jan. 28, 2025), <https://www.federalregister.gov/d/2025-02194>.

⁵³ Exec. Order No. 14190, *Ending Radical Indoctrination in K–12 Schooling*, 90 Fed. Reg. 8853 (Jan. 29, 2025), <https://www.federalregister.gov/documents/2025/02/03/2025-02232/ending-radical-indoctrination-in-k-12-schooling>.

⁵⁴ See, e.g., White House, *President Trump’s Top 100 Victories for People of Faith* (Sept. 8, 2025), <https://www.whitehouse.gov/releases/2025/09/president-trumps-top-100-victories-for-people-of-faith/> (highlighting ways President Trump has protected parental rights); Brief of United States, *Mahmoud v. Taylor*, 606 U.S. 522 (2025), No. 24-297, https://www.supremecourt.gov/DocketPDF/24/24-297/351678/20250310164956381_24-297_tsacUnitedStates.pdf; Press Release, ACF Defends Biological Reality and Parental Rights in Letter to All 50 States (Mar. 3, 2026), <https://acf.gov/media/press/2026/acf-defends-biological-reality-parental-rights-letter-50-states> (letter available at <https://media.eppc.org/2026/03/ACF-CAPTA-Letter.pdf>).

⁵⁵ See, e.g., White House, *President Trump is Delivering on His Commitment to Protect Our Kids* (Feb. 3, 2025), <https://www.whitehouse.gov/articles/2025/02/president-trump-is-delivering-on-his-commitment-to-protect-our-kids/>.

⁵⁶ See, e.g., Exec. Order 14168, *Defending Women From Gender Ideology Extremism and Restoring Biological Truth to the Federal Government*, 90 Fed. Reg. 8615 (Jan. 20, 2025), <https://www.federalregister.gov/d/2025-02090>; Exec. Order 14187, *Protecting Children From Chemical and Surgical Mutilation*, 90 Fed. Reg. 8771 (Jan. 28, 2025), <https://www.federalregister.gov/d/2025-02194>; Exec. Order 14201, *Keeping Men Out of Women’s Sports*, 90 Fed. Reg. 9279 (Feb. 5, 2025), <https://www.federalregister.gov/d/2025-02513>; Press Release, DOJ, The Department of Justice Proposes Legislation to Protect Children from Gender Mutilation (Sept. 3, 2025), <https://www.justice.gov/opa/pr/department-justice-proposes-legislation-protect-children-gender-mutilation> (proposing “Victims of Chemical or Surgical Mutilation Act”).

⁵⁷ See, e.g., Exec. Order 14188, *Additional Measures to Combat Anti-Semitism* (Jan. 29, 2025), <https://www.federalregister.gov/d/2025-02230>; Exec. Order 14202, *Eradicating Anti-Christian Bias*, 90 Fed. Reg. 9365 (Feb. 6, 2025), <https://www.federalregister.gov/d/2025-02611>; Exec. Order 14205, *Establishment of the White*

The Administration’s conclusion that gender ideology is harmful to children is further expressed in a new lawsuit filed by the Federal Trade Commission (FTC). On June 16, 2026, the FTC—joined by the Attorneys General of Alaska, Iowa, Nebraska, and Texas—filed suit against the World Professional Association for Transgender Health (WPATH).⁵⁸

The Complaint describes WPATH as an association whose “membership predominantly consists of clinicians who profit” from selling sex-rejecting procedures to “consumers whose children express dissatisfaction with, or report about, their sex-linked biological and anatomical characteristics.”⁵⁹ WPATH’s so-called “Standards of Care” [SOC] have long served as the primary clinical authority cited by gender clinics, insurers, and courts to justify pediatric gender transition services.⁶⁰ The Complaint alleges that “WPATH crafted the SOC with the explicit goal of guaranteeing that insurers would classify medical transition services as medically necessary and therefore covered by their insurance plans.”⁶¹ It alleges that WPATH provided clinicians with the means to make “false and unsubstantiated claims” to parents about the medical necessity, safety, and effectiveness of puberty blockers, cross-sex hormones, and surgeries for children, in violation of the FTC Act.⁶² Critically, the complaint alleges that WPATH labeled these interventions “medically necessary” without any foundation in competent and reliable scientific evidence in order to maximize insurance reimbursement and drive demand for the procedures.⁶³

House Faith Office, 90 Fed. Reg. 9499 (Feb. 12, 2025), <https://www.federalregister.gov/d/2025-02635>; DOJ, Eradicating Anti-Christian Bias within the Federal Government (Apr. 30, 2026), <https://www.justice.gov/opa/media/1438506/dl?inline>; Press Release, EEOC, *200 Days of EEOC Action to Protect Religious Freedom at Work* (Aug. 22, 2025), <https://www.eeoc.gov/newsroom/200-days-eeoc-action-protect-religious-freedom-work>.

⁵⁸ Press Release, FTC, *FTC, States Sue World Professional Association for Transgender Health Over Deceptive Claims Regarding the Treatment of Children* (June 16, 2026), <https://www.ftc.gov/news-events/news/press-releases/2026/06/ftc-states-sue-world-professional-association-transgender-health-over-deceptive-claims-regarding-treatment-children>. See also Complaint, *FTC v. World Professional Ass’n for Transgender Health, Inc.*, No. 4:26-cv-00748 (N.D. Tex. filed June 16, 2026) (redacted) [hereinafter Compl.], https://www.ftc.gov/system/files/ftc_gov/pdf/WPATH-Complaint-Redacted.pdf.

⁵⁹ Compl. ¶ 6.

⁶⁰ WPATH’s *Standards of Care for the Health of Transgender and Gender Diverse People* (8th ed. 2022) (SOC-8) are widely cited by insurers as the basis for coverage determinations and by courts as evidence of medical consensus. See, e.g., FTC Complaint at ¶ 6, 17 (describing WPATH as “operat[ing] for the profit of its members,” whose “membership predominantly consists of clinicians who profit from these services” and whose guidelines “made false, misleading, or unsubstantiated statements ... regarding medical consensus and medical necessity, as well as the safety and efficacy of medical transition.”); see also FTC, *Order Denying Petition to Quash Civil Investigative Demand*, FTC File No. P264800 (Mar. 22, 2026), https://www.ftc.gov/system/files/ftc_gov/pdf/WPATHPTQ-Order.pdf (describing the scope of the FTC’s investigation into WPATH’s standards and communications).

⁶¹ Compl. ¶ 16.

⁶² Compl. ¶ 19; FTC Press Release (“Today, the FTC filed a lawsuit against WPATH alleging that the organization made false and unsubstantiated claims regarding the necessity, effectiveness and safety of puberty blockers, hormones and sex-change surgeries.” (quoting FTC Chair Andrew Ferguson)).

⁶³ Compl. ¶ 265 (“WPATH makes unsubstantiated medical necessity claims to obtain maximum insurance coverage for its members’ pediatric medical transition services, thereby helping its members profit.”).

The same WPATH Standards of Care that the FTC alleges are built on fraud and deception⁶⁴ are the very guidelines that have shaped what counts as “appropriate” children’s programming about gender identity. A TV ratings system that declines to flag content promoting those guidelines to children is therefore not only inconsistent with the Administration’s executive orders, it is also at odds with an active federal lawsuit that alleges that these guidelines are a vehicle for consumer deception directed at parents.

The official determinations found in HHS definitions, President Trump’s executive orders, and FTC’s recent complaint give the Commission legal and policy justification to conclude that American parents ought to be provided with a warning label or parental advisory that helps them identify programming that delivers gender ideology content to children. The Administration need not prove that every individual piece of such content causes identifiable harm—it has already made a categorical policy determination that gender ideology harms children. A ratings or warning system that fails to flag content advancing that ideology is therefore inconsistent with the Administration’s own stated policies. Just as the FCC requires warnings for content involving violence or sexual material, the same logic applies here: where the federal government has determined a category of content is harmful to minors, parents are entitled to notice before their children are exposed to it.

IV. The current ratings board does not represent the diverse views held by American parents and, not surprisingly, has not earned parents’ trust.

In this final section, I shift from focusing on the comments submitted in opposition to the Notice to the comment record as a whole. The entire comment record confirms that Americans hold deeply divergent views on whether parents should receive clear warnings when children’s programming includes LGBTQ or gender-identity themes. MB Docket No. 19-41 drew submissions from organizations and coalitions explicitly supporting such content labels—among them faith-based and family-policy groups like EPPC and Concerned Women for America—as well as comments from GLAAD, Free Press, Public Knowledge, LGBT Tech, and a coalition of over forty progressive organizations firmly opposing any ratings changes for LGBTQ-themed content in children’s programming.

Yet this diversity is not found among the TV ratings board. As noted above, Congress instructed the FCC to ensure that the ratings advisory committee is “fairly balanced in terms of ... the points of view represented.” But as my colleagues and I showed in our May 22, 2026 comment, the Board neither reflects the diversity shown in public comments nor the balance that Congress called for. Even the Board’s “public interest” seats are held by organizations that either actively promote gender ideology to children (AAP, National PTA, Boys & Girls Clubs of America) or have no meaningful connection to parents or children at all (Entertainment Industries Council, Call For Action).⁶⁵ No faith-based groups, conservative parent organizations, or viewpoint-diverse bodies hold any seat. A committee composed entirely of industry representatives and ideologically uniform advocacy groups is not “fairly balanced in terms of ...

⁶⁴ Compl. ¶¶ 413-14.

⁶⁵ EPPC Comment at 2-4.

the points of view represented,” and it plainly does not satisfy Congress’s instruction that parents and “appropriate public interest groups” be included as such.⁶⁶

Public-opinion data reinforces that Americans are dissatisfied with this imbalance.

A June 2026 Zogby Analytics poll commissioned by Concerned Women for America⁶⁷ found that **79.5% of parents** support reforming the TV ratings oversight system to include “more independent experts, parent groups, and child-advocacy organizations,” and **40.9%** already believe the current system is “too controlled by the entertainment industry.” The same poll reported that **87.1% of parents** consider content labels for LGBTQ messaging in children’s programming to be “very important” or “somewhat important,” indicating broad parental demand for the very kind of information the Board currently declines to provide.

The TV ratings system is not run by groups that reflect the American people or their concerns. American parents understand this and do not find that the system meets their needs. I encourage the Commission to take these data points into account as it takes further steps consistent with the Notice and its Congressional mandate.

CONCLUSION

Thank you for the opportunity to provide public comment. I hope that these reflections upon the initial comment period and other recent developments will help the Commission carry out its mission and address the important issues raised in its Notice.

Sincerely,

Eric Kniffin, J.D.
Fellow
Administrative State Accountability Project
Ethics & Public Policy Center

⁶⁶ *Id.*

⁶⁷ <https://concernedwomen.org/new-cwa-poll-finds-majority-of-parents-want-tv-programs-to-disclose-lgbtq-messaging/>.