

May 22, 2026

Marlene H. Dortch, Secretary
Federal Communications Commission
45 L Street NE
Washington, DC 20554
Submitted via the Electronic Comment Filing System

RE: Public Comment in Response to MB Docket No. 19-41

We, the undersigned 44 organizations, include groups dedicated to advocating for, researching, and/or portraying the lived experiences, stories, and rights of lesbian, gay, bisexual, transgender, queer, and intersex (LGBTQI+) people. Together, we submit the following comments for consideration by the Federal Communications Commission (FCC). We are writing to strongly recommend that the FCC not take any of the actions that its recent notice (the “Notice”)¹ suggests it is considering taking regarding the TV Oversight Management Board (the “TVOMB”) and its television ratings system, and to offer our responses to the specific questions contained within that Notice.

Together, we affirm that depictions of LGBTQI+ identities, including specifically transgender and non-binary identities, belong in our television programs. We believe that all people—including all LGBTQI+ youth—deserve to see themselves represented in the media. And we also believe that parents and guardians, not government regulators, should be the ones deciding what their children are able to watch. As we discuss further below, parents and guardians can in fact already do so using the tools provided by Congress, and media companies themselves, for that exact purpose. The FCC should therefore not take any action that would usurp this role and needlessly—and unlawfully—involve the government in decisions that are not its own to make.

As current Commissioner Anna Gomez recently noted, the Notice and the actions it suggests the FCC is considering are, “a solution in search of a problem, and another example of this Commission prioritizing culture war politics over the real issues that affect consumers every day.”² We agree wholeheartedly with Commissioner Gomez, and also uplift her observation that, “[t]he FCC’s own record shows the existing system is working fine……. The most recent annual report found only 11 pieces of public correspondence relevant to the board’s work, and spot checks turned up just two instances where a rating actually needed to be changed.”³

¹ FCC, MB Docket No. 19-41, 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 (Apr. 22, 2026), <https://docs.fcc.gov/public/attachments/DA-26-392A1.pdf> [hereinafter referred to as “FCC Notice”].

² John Hendel, POLITICO, *Brendan Carr floats TV ratings for transgender content* (Apr. 22, 2026), <https://www.politico.com/news/2026/04/22/brendan-carr-tv-gender-identity-fcc-00887017>.

³ *Id.*

In response to: “We seek comment on whether and how the Bureau’s suggestions, both regarding increased transparency of the TVOMB and accuracy of TV ratings, have been implemented. How does the TVOMB engage with the public and are the steps taken sufficient?”

1. The FCC does not have the legal authority to mandate changes to the existing ratings system or the composition of the TVOMB as suggested by the Notice.

The actions suggested by the Notice are directly in conflict with the will of Congress as expressed through its passage of the Telecommunications Act of 1996 (the “Telecommunications Act”), as well as subsequent legislation related to the TVOMB. The FCC does not maintain any authority to act as it suggests it might via the Notice, and it cannot assert such authority simply because it feels that the TVOMB’s actions regarding content related to gender identity have been “[in]sufficient.”⁴

Through the Telecommunications Act, Congress gave FCC *conditional* authority to establish its own mandatory television ratings system, but only if the industry did not establish voluntary rules by February 1997 that the FCC deemed “acceptable.”⁵ As acknowledged in the Notice, “in 1998 [the FCC] found that industry’s approach met the relevant statutory criteria.”⁶ And while the FCC notes several “concerns” within the Notice about “the accuracy of the ratings, the appropriateness of the ratings, and a shift or ratings creep in which mature, adult, or inappropriate content is being rated as appropriate for young children[,]”⁷ these unwarranted concerns do not give it any authority to override the existing ratings system. Indeed, Congress has not conferred any further authority to the FCC regarding the television ratings system since its passage of the Telecommunications Act.⁸

In its most recent relevant action, through the Consolidated Appropriations Act, 2019, Congress directed the FCC to report “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 Via the Notice, the FCC purports to seek comment on suggestions it made to the TVOMB in its 2019 report fulfilling that congressional requirement. However, the Notice was not put forward in order to respond to a directive from Congress, but rather because, as stated by the FCC, “[r]ecently, parents have raised concerns that controversial gender identity issues are being included or promoted in children’s programs without providing any disclosure or transparency to parents. Specifically, the industry guidelines that parents rely on are rating shows with transgender and gender non-binary programming as appropriate for children and young children, and doing so without providing this information to parents, thereby undermining the ability of parents to make informed choices for their families.”¹⁰ And yet, the Notice provides

⁴ FCC Notice at 4.

⁵ Pub. L. No. 104-104, § 551(b).

⁶ FCC Notice at 1.

⁷ *Id.* at 2.

⁸ The only authority currently maintained by the FCC to establish requirements related in any manner to content ratings themselves is a provision that specifically and solely empowers it to require that televisions ship with V-chips. *See* 47 U.S.C. § 303(x).

⁹ Pub. L. No. 116-6, Explanatory Statement (H. Rept. 116-9, Division D, Title V, p. 673), 133 Stat. 13 (2019).

¹⁰ FCC Notice at 2.

no further detail on the source of these concerns, the rated television content in question, or the way in which that programming has undermined parental choice.

Furthermore, the FCC’s 2019 report provided limited recommendations that were, consistent with Congress’s directive, focused on greater transparency and accessibility on the part of the TVOMB, specifically via the use of spot checks and audits to assess the consistent application of ratings.¹¹ Here however, the FCC invites public input on a much broader set of questions, including on the composition of the TVOMB and, as discussed further below, whether the current rating system sufficiently alerts parents or guardians to “gender identity themes.”¹² But the FCC’s legal authority extends to neither matter.

The Notice suggests that rather than contemplating an exercise of any actual statutory authority, the FCC is considering taking unlawful action to pressure broadcast licensees and dictate their content. Such an attempt appears consistent with other actions recently taken by federal agencies targeting transgender people and their sources of support. For example, late last year the Food and Drug Administration announced it issued warning letters to manufacturers and retailers of breast binders, claiming jurisdiction over their products and alleging that their marketing for these items (which are at times used by trans-masculine people as part of their transition-related care) violates federal law.¹³ The FCC should not follow the lead of these agencies, and should instead be focused on faithfully fulfilling its statutory role as mandated by Congress.

2. The actions suggested by the Notice would usurp the critical role that Congress intended for parents or guardians to play in selecting what content children access.

Existing federal law makes clear that Congress sought to balance several considerations in determining the contours of our ratings system for television broadcasts, and that it has repeatedly chosen to affirm that parents and guardians are ultimately the parties responsible for deciding what content their children can watch. Indeed, in passing the Telecommunications Act, Congress found that “[t]here is a compelling governmental interest in empowering *parents* to limit the negative influences of video programming that is harmful to children.”¹⁴ However, the FCC’s suggestion via its Notice is seemingly that the government should be deciding what content is and is not suitable for these individuals’ children instead.

The TVOMB’s existing practices show that Congress’s intended model is already in place and working as intended. Within the TVOMB’s recent 2025 Annual Report, it noted that, “[i]n January [2025], a viewer expressed disappointment about a character on a program. The Monitoring Board responded to the viewer, explaining that it has no oversight over program

¹¹ Implementation of the Consolidated Appropriations Act of 2019; Report on Television Ratings and The Oversight Monitoring Board, MB Docket No. 19-41, Report, 34 FCC Rcd 3205 (MB 2019).

¹² FCC Notice at 4.

¹³ See, e.g., FDA, *WARNING LETTER Trans-Missie B.V.* (Dec. 16, 2025), <https://www.fda.gov/inspections-compliance-enforcement-and-criminal-investigations/warning-letters/trans-missie-by-720852-12162025>.

¹⁴ Section 551(a)(8) of the Telecommunications Act (emphasis added); see also 47 U.S.C. § 330 (repeated references to “enabl[ing] parents” and “allow[ing] parents” to block programs based on ratings).

content or casting decisions and encouraged the viewer to contact the network directly.”¹⁵ The Notice even contains its own references to the tools designed by Congress to ensure that parents and guardians are the ones making decisions over the content their children can access, including by asking about the use of V-chips and the aforementioned TVOMB complaint process.¹⁶ The FCC should therefore follow the example of the TVOMB and encourage viewers to use those tools, rather than take steps to engage in unlawful overreach as suggested by the Notice.

In response to: “Do descriptions of the content provide a sufficient basis for parents to make informed decisions concerning viewing decisions for their family, including when gender identity themes are discussed or displayed? Are parents aware that children watching programs rated TV-Y, TV-Y7, and TV-G may contain the discussion or promotion of gender identity themes? Should such programming be rated differently or contain relevant descriptions so that parents can make informed decisions?”

3. The identity of characters alone is insufficient reason for a program to carry a content warning, and doing so would establish a dangerous precedent.

Content warnings that specifically single out LGBTQI+ people, including transgender and non-binary people, or mentions of gender identity on screen are unnecessary, unhelpful, and discriminatory. They do not serve to inform parents or guardians; they serve to further a strategic political agenda that has targeted a minority for exclusion from public view.

Requiring a content warning based solely on the identity of a character establishes a dangerous precedent, and one with a troubling historical context. In 1930, political strategist Will H. Hays took over the Motion Picture Producers and Distributors of America, famously imposing a strict code of censorship over themes deemed immoral to ensure broadcasters presented only “correct standards of life.”¹⁷ Among the consequences of this decree was an effective ban of depictions of interracial relationships on-screen. “Wrong entertainment,” the Hayes Code cautioned, “lowers the whole living conditions and moral ideals of a race.”¹⁸

Such censorship did not exist in isolation. but rather against the backdrop of a national debate over equality that went far beyond the screen. Twenty years later, as the dust of World War II settled, the conversation around women’s rights was reemerging in the national discourse. Early depictions of working women on screen and behind the camera were seen as particularly subversive. In 1950, three former FBI agents at the Newsletter of Facts to Combat Communism published a list of people accused of communist sympathies as cause for exclusion from the film and television industry—better known as the “Black List.” And so it is no coincidence that,

¹⁵ TV PARENTAL GUIDELINES MONITORING BOARD, TV PARENTAL GUIDELINES ANNUAL REPORT 2025, https://www.tvguidelines.org/resources/TV_Parental_Guidelines_2025AnnualReport.pdf [hereinafter referred to as “2025 ANNUAL REPORT”].

¹⁶ FCC Notice at 4 (asking, “[i]s the general public aware of the ratings system and how to provide feedback to the TVOMB? Is the general public aware that the V-chip can be used with the ratings system to block unwanted video programming from reaching children?”).

¹⁷ MOTION PICTURE PRODUCERS & DISTRIBS. OF AM., THE MOTION PICTURE PRODUCTION CODE OF 1930, <https://faculty.xavierhs.org/vargasv/TheMotionPictureProductionCodeof1930.pdf> (last visited May 5, 2026).

¹⁸ *Id.*

while women made up a single-digit percentage of those working in the industry at the time,¹⁹ they accounted for nearly a third of people named in the Black List.²⁰

Following in the footsteps of these acts of censorship as suggested by the Notice could troublingly encourage future iterations of the FCC to find the inclusion of characters from other minority communities as being grounds for specific content warnings within certain programming. The same logic used to bolster the Notice’s suggested marginalization of certain LGBTQI+ identities could prove a slippery slope to requiring heightened ratings for programs with same-sex couples, people from different religious traditions, and other people and families who do not conform to certain narrow stereotypes, such as women working outside of the home.

4. The FCC’s suggested action of reclassifying certain content would be contrary to the will of Congress as expressed through the Telecommunications Act.

As enacted by Congress, federal law specifies that the ratings system is designed to pertain to “sexual, violent, or other indecent material.”²¹ Depictions of LGBTQI+ people are not inherently sexual, and certainly not any more than depictions of heterosexual, cisgender, and non-intersex people are inherently sexual. Nor are those depictions intrinsically linked to violence, other than for the disproportionate tendency of LGBTQI+ people to be on the receiving end of violent attacks.²² Supreme Court caselaw and existing FCC regulations both provide tests for what qualifies in that third category. And under those tests, LGBTQI+ characters and issues, including specifically depictions of transgender and non-binary identities, would not be considered indecent material.

For example, in order for a piece of media to qualify as obscene and thus be entirely exempt from the protection of the First Amendment, the three-prong test devised by the Supreme Court in *Miller v. California* requires that the average person would find that it appeals to the prurient interest (a shameful or morbid interest in nudity, sex, or excretion); explicitly depicts or describes sexual conduct; *and* “lacks serious literary, artistic, political, or scientific value.”²³ Federal law²⁴ also entrusts the FCC with limited jurisdiction to regulate content that is indecent—that is, content that “depicts or describes sexual or excretory organs in a way that is patently offensive”—or profane — including “‘grossly offensive’ language that is considered a public nuisance.”²⁵

¹⁹ Anja Huwiler, *100 Years of Women in Filmmaking: Behind-the-Scenes Labour and Oscar Recognition in Hollywood*, 46 HIST. J. FILM, RADIO & TELEVISION 197–219 (2026).

²⁰ American Business Consultants, *Red Channels: The Report of Communist Influence in Radio and Television* (1950).

²¹ Section 551 of the Telecommunications Act.

²² See ILAN H. MEYER & ANDREW R. FLORES, WILLIAMS INST., ANTI-LGBT VICTIMIZATION IN THE UNITED STATES: RESULTS FROM THE NATIONAL CRIME VICTIMIZATION SURVEY (2022-2023) (2025), <https://williamsinstitute.law.ucla.edu/wp-content/uploads/Anti-LGBT-Violence-Feb-2025.pdf>

²³ 413 U.S. 15, 24 (1973)

²⁴ 18 U.S.C. § 1464 (broadcasting obscene language); *see also*, 47 C.F.R. § 73.3000 (enforcement of restrictions on the transmission of obscene and indecent material).

²⁵ FCC, *Broadcast of Obscenity, Indecency, and Profanity*, <https://www.fcc.gov/enforcement/areas/broadcast-obscenity-indecency-profanity> (last visited May 5, 2026).

The existence of transgender people is neither shameful nor morbid, nor is it inherently sexual. Public conversation about transgender issues and art created by and about transgender people is not, and has never been, obscene or "grossly offensive."²⁶ Furthermore, depicting transgender characters does not require describing human anatomy, nor are words used to discuss transgender issues "grossly offensive." In fact, for many depictions of transgender characters, their gender identity is secondary to their role or even not discussed at all. Inclusive, age-appropriate titles with LGBTQI+ characters like *Steven Universe*, *Doc McStuffins*, *She-Ra and the Princesses of Power*, *High School Musical: The Musical: The Series*, *The Baby-Sitters Club*, *Heartstopper*, and *Jurassic World: Camp Cretaceous* have been well received by their target audiences and been nominated for and won prestigious industry awards like the Kidscreen Awards; Annie Awards; the GLAAD Media Awards; Peabody Awards; the Primetime, Creative Arts, and Daytime Emmy Awards; and Critics' Choice Television Awards.

Since 2005's *Postcards from Buster*, which is widely acknowledged as the first children's show to include LGBTQI+ characters, GLAAD has counted over 145 inclusive titles in kids and family film and television. These series and movies have long connected with audiences and told a wide range of stories. Age-appropriate LGBTQI+-inclusive stories are critically important to real-world LGBTQI+ youth, helping them recognize they are not alone in their feelings and can even be a model to help them recognize that they do have a rightful place in the world.

And so we explicitly reject the idea that exposure to certain identities, including LGBTQI+ identities, is harmful. Transgender and other LGBTQI+ characters seen on screen today are no more dangerous to young viewers than Laura Petrie was in 1961, when she first donned pants on the Dick Van Dyke show.²⁷ The Notice provides examples of comparable reasons for higher ratings like "explicit language, suggestive language, and violent programming."²⁸ But these comparisons are unwarranted and unreasonable when compared to depictions of transgender, non-binary, and other LGBTQI+ people. The idea that merely acknowledging that these communities exist is equivalent to exposure to explicit violence is at best absurd, and at worst actively harmful.

5. Targeting content merely because it depicts trans, non-binary, and other LGBTQI+ characters and identities will only serve to further stigmatize and harm an already marginalized population.

We all deserve representation in media, and LGBTQI+ people are no exception. Per the most recent Gallup polling, 23% of American adults under 30 identify as LGBTQ+.²⁹ The Williams

²⁶ See, e.g., Roland Betancourt, *Transgender Lives in the Middle Ages through Art, Literature, and Medicine in Outcasts: Prejudices and Persecution in the Medieval World* (Getty Publications 2019), https://www.getty.edu/art/exhibitions/outcasts/downloads/betancourt_transgender_lives.pdf; see also Ianko López, EL PAÍS, *The Surprising Case of Catalina de Erauso: The First Trans Portrait in History Finds Its Voice 400 Years Later* (Mar 15, 2022), <https://english.elpais.com/culture/2022-03-16/the-case-of-catalina-de-erauso-the-first-trans-portrait-in-history-finds-its-voice-400-years-later.html>.

²⁷ Breeanna Hare, CNN, *How Mary Tyler Moore's Capri Pants Broke the Sitcom Mold* (Jul. 10, 2021), <https://www.cnn.com/style/article/mary-tyler-moore-capri-pants>.

²⁸ FCC Notice at 4.

²⁹ Jeffrey M. Jones, GALLUP, *LGBTQ+ Identification Holds at 9% in U.S.* (Feb. 16, 2026), <https://news.gallup.com/poll/702206/lgbtq-identification-holds.aspx>.

Institute has previously estimated that 9.5% of Americans ages 13-17 identify as LGBT.³⁰ Additionally, the Williams Institute has reported that an estimated five million children are being raised by an LGBTQ parent.³¹

A supermajority of Americans (79%) agrees that everyone deserves to feel represented in media content, such as movies, television shows, or video games, and more than half of Americans (62%) say they would let their children watch age-appropriate television shows or movies with LGBTQ characters.³² Decades of LGBTQ+ characters in a wide variety of genres have impacted people across a range of identities, including those with intersectional identities and even youth via age-appropriate content. LGBTQI+ people and families have appeared on television for over half a century, with standout examples including *That Certain Summer*, *Roc*, *My So-Called Life*, *ER*, *Grey's Anatomy*, *Brothers & Sisters*, *Noah's Arc*, *Will & Grace*, *Modern Family*, *The Fosters*, *Steven Universe*, *Vida*, *Heartstopper*, *Schitt's Creek*, and many, many more. All of these series and films—dating back to 1972—recognized the power of storytelling and media to connect people and break down perceived barriers for all of us.

Indeed, research shows that LGBTQI+ stories help build inclusivity and belonging, with many advances in acceptance being connected to our communities being portrayed in the media. For example, in 2013 GLAAD was able to compare data showing increases in support for marriage equality in the U.S. alongside an increase in LGBTQ series regulars on television.³³ Polling by *Variety* similarly found that 38% of people surveyed cited LGBT characters as the “key influence” in their beliefs about the community, with 78% of individuals surveyed saying prominent LGBTQ public figures were a “major influence.”³⁴

Likewise, polling conducted by GLAAD and Netflix in 2020 of over 6,000 adults in Latin America found a majority (68%) said they had watched a show or film that gave them a better understanding of the LGBTQ community.³⁵ 73% of non-LGBTQ respondents reported that seeing LGBTQ characters and stories on-screen made them feel more comfortable with LGBTQ people.³⁶ Notably, 75% of LGBTQ respondents to this polling reported feeling that entertainment has helped their family to better understand the community.³⁷ All these findings continue to align with studies dating back to the 1990s that have persistently proven that inclusive entertainment and news media have a significant effect on viewers’ perceptions of the LGBTQI+ community and accelerating acceptance.

³⁰ KERITH J. CONRON, WILLIAMS INST., *LGBT YOUTH POPULATION IN THE UNITED STATES* (2020), <https://williamsinstitute.law.ucla.edu/publications/lgbt-youth-pop-us/>.

³¹ BIANCA D.M. WILSON & LAUREN J.A. BOUTON, WILLIAMS INST., *LGBTQ PARENTING IN THE US* (2024), <https://williamsinstitute.law.ucla.edu/publications/lgbt-parenting-us/>.

³² GLAAD, *Accelerating Acceptance 2025*, <https://glaad.org/accelerating-acceptance-2025/> (last visited May 5, 2026).

³³ Megan Townsend, GLAAD, INFOGRAPHIC: LGBT Television Characters and Couples Paving the Way on the Road to Marriage Equality (Jun. 26, 2013), <https://glaad.org/infographic-lgbt-television-characters-and-couples-paving-way-road-marriage-equality/>.

³⁴ Brent Lang, VARIETY, *Ellen DeGeneres Influenced Gay Rights Views More Than Any Other Celebrity (Study)* (Jun. 30, 2015), <https://variety.com/2015/tv/news/ellen-degeneres-gay-rights-gay-marriage-1201531462/>.

³⁵ GLAAD MEDIA INSTITUTE, 2020 STUDIO RESPONSIBILITY INDEX 8, <https://media.glaad.org/wp-content/uploads/2020/07/10053020/GLAAD-2020-Studio-Responsibility-Index-231.pdf>.

³⁶ *Id.*

³⁷ *Id.*

Per data collected through the Trevor Project’s 2022 National Survey on LGBTQ Youth Mental Health, these stories have an appreciable benefit for our youth, as “89% of LGBTQ youth reported that seeing LGBTQ representation in television and movies made them feel good about being LGBTQ.”³⁸ This is notable as LGBTQI+ people have long encountered stigma and discrimination merely for being who they are, with these experiences often leading to health disparities and other negative outcomes when compared to their non-LGBTQI+ peers. And so if the FCC were to act as its Notice suggests, we anticipate that stigma against LGBTQI+ people would increase, in turn compounding the harms this community has long experienced.

These harmful experiences have long been reported across a wide range of contexts throughout every aspect of the lives of LGBTQI+ people. This includes while learning in our nation’s schools;³⁹ when seeking housing including emergency shelter and services while unhoused;⁴⁰ within public accommodations;⁴¹ and while seeking medical care.⁴² And quite notably, this includes a heightened risk of experiencing fatal violence, particularly among transgender populations as has consistently been reported by researchers including through a series of annual reports by the Human Rights Campaign Foundation.⁴³ A report by the National Women’s Law Center even found that efforts to censor books featuring content that affirms communities like LGBTQIA+ people and people of color in turn “promote[] bias against vulnerable students and threaten[] to normalize and entrench discrimination against people of color, women and girls, and LGBTQIA+ people for a generation of young people.”⁴⁴ The report continues by noting that, “the research shows that when students do not see LGBTQIA+ representation in what they learn, they are more likely to report harassment and feeling unsafe to be who they are at school, as compared to LGBTQIA+ students who have access to LGBTQIA-inclusive curricula.”⁴⁵

Access to age-appropriate content with transgender, non-binary, and other LGBTQI+ characters empowers youth to create safer environments for their peers, even if they themselves are not

³⁸ TREVOR PROJECT, *2022 National Survey on LGBTQ Youth Mental Health*, <https://www.thetrevorproject.org/survey-2022/#representation> (last visited May 5, 2026).

³⁹ See, e.g., JOSEPH G. KOSCIW ET AL., GLSEN, *THE 2021 NATIONAL SCHOOL CLIMATE SURVEY* (2022), <https://glisten.org/wp-content/uploads/2026/02/2021-National-School-Climate-Survey-Full-Report.pdf>; KATHRYN K. O’NEILL ET AL., WILLIAMS INST., *EXPERIENCES OF LGBTQ PEOPLE IN FOUR-YEAR COLLEGES AND GRADUATE PROGRAMS* (2022), <https://williamsinstitute.law.ucla.edu/wp-content/uploads/LGBTQ-College-Grad-School-May-2022.pdf>.

⁴⁰ See, e.g., ADAM P. ROMERO ET AL., WILLIAMS INST., *LGBT PEOPLE AND HOUSING AFFORDABILITY, DISCRIMINATION, AND HOMELESSNESS* (2020), <https://williamsinstitute.law.ucla.edu/wp-content/uploads/LGBT-Housing-Apr-2020.pdf>.

⁴¹ See, e.g., CHRISTY MALLORY & BRAD SEARS, WILLIAMS INST., *EVIDENCE OF DISCRIMINATION IN PUBLIC ACCOMMODATIONS BASED ON SEXUAL ORIENTATION AND GENDER IDENTITY* (2016), <https://williamsinstitute.law.ucla.edu/wp-content/uploads/LGBT-Public-Accomm-Discrimination-Feb-2016.pdf>.

⁴² See, e.g., *You Don’t Want Second Best” Anti-LGBT Discrimination in US Health Care*, HUMAN RIGHTS WATCH (July 23, 2018), <https://www.hrw.org/report/2018/07/23/you-dont-want-second-best/anti-lgbt-discrimination-us-health-care>.

⁴³ HUMAN RIGHTS CAMPAIGN FOUND., *FATAL VIOLENCE AGAINST TRANSGENDER AND GENDER NON-CONFORMING PEOPLE IN THE UNITED STATES: 2013-2025 COUNTS AND OTHER STATISTICS* (2025), <https://hrc-prod-requests.s3-us-west-2.amazonaws.com/Research/Trans-Violence-2025.pdf>.

⁴⁴ NAT’L WOMEN’S LAW CTR., *GENDER JUSTICE MEANS FREEDOM TO LEARN: HOW SCHOOL CENSORSHIP PROMOTES SEX DISCRIMINATION* (2024), https://nwlc.org/wp-content/uploads/2024/01/2024_nwlc_Censorship_FS.pdf.

⁴⁵ *Id.*

LGBTQI+. However, the FCC’s suggestions via its Notice here would foreclose that possibility for far too many of our youth, with no input by their parents, and would leave them feeling alone in their experiences and identities. This risk is particularly heightened today, as these young people continue to face relentless attacks by politicians targeting their identities and wellbeing, access to public spaces, and ability to find community and information online.⁴⁶ For example, research by the Williams Institute found that 53% of transgender youth were directly impacted by anti-trans legislation introduced by their lawmakers in states’ 2025 legislative sessions alone.⁴⁷ Likewise, data from the recently released 2025 U.S. National Survey on the Mental Health of LGBTQ+ Young People conducted by the Trevor Project show that 90% of LGBTQ+ young people said recent anti-LGBTQ+ laws, policies and debates caused them stress or anxiety.⁴⁸

6. The type of censorship suggested by the FCC’s Notice would raise several constitutionality concerns that the FCC could not overcome if challenged.

Congress has made clear that the FCC’s authority is bound by its constitutional duty to uphold freedom of speech under the First Amendment to the U.S. Constitution. In turn, the FCC has long made clear itself that, “[t]he FCC is barred by law from trying to prevent the broadcast of any point of view.”⁴⁹

In creating the FCC, Congress enacted an explicit ban on it engaging in censorship, with that statute further stating that “no regulation or condition shall be promulgated or fixed by the Commission which shall interfere with the right of free speech.”⁵⁰ The Supreme Court has allowed few, narrowly tailored exceptions to this ban on censorship. This includes in *FCC v. Pacifica Foundation*, where it only affirmed “the Commission’s authority to impose sanctions on licensees who engage in obscene, indecent, or profane broadcasting.”⁵¹ However, the FCC’s suggestions in the Notice go far beyond the scope of this existing caselaw.

And to be clear, flagging content simply because it portrays transgender, non-binary, and other LGBTQI+ identities would raise content-based and viewpoint discrimination concerns contrary to the First Amendment’s guarantees. As the FCC itself has previously said, “the public interest is best served by permitting free expression of views.”⁵² However, here the FCC has suggested targeted actions it might take, such as working to require higher ratings for shows “with

⁴⁶ See, e.g., HUMAN RIGHTS CAMPAIGN, LGBTQ+ AMERICANS UNDER ATTACK: A REPORT AND REFLECTION ON THE 2023 STATE LEGISLATIVE SESSION (2023), <https://hrc-prod-requests.s3-us-west-2.amazonaws.com/Anti-LGBTQ-Legislation-Impact-Report.pdf>.

⁴⁷ JOSHUA ARRAYALES & ELANA REDFIELD, WILLIAMS INST., THE IMPACT OF 2025 ANTI-TRANSGENDER LEGISLATION ON YOUTH 3 (2026), <https://williamsinstitute.law.ucla.edu/wp-content/uploads/2025-Anti-Trans-Legislation-Jan-2026.pdf>.

⁴⁸ TREVOR PROJECT, 2025 U.S. National Survey on the Mental Health of LGBTQ+ Young People, <https://www.thetrevorproject.org/survey-2025/> (last visited May 6, 2026).

⁴⁹ See, e.g., FCC, THE FCC AND FREEDOM OF SPEECH (2019), https://www.fcc.gov/sites/default/files/the_fcc_and_freedom_of_speech.pdf.

⁵⁰ See Section 326 of the Telecommunications Act, codified at 47 U.S.C § 326.

⁵¹ 438 U.S. 726 (1978)

⁵² FCC, THE PUBLIC AND BROADCASTING: HOW TO GET THE MOST SERVICE FROM YOUR LOCAL STATION 10 (2019), <https://www.fcc.gov/sites/default/files/public-and-broadcasting.pdf>.

transgender and gender non-binary programming” only,⁵³ rather than broadly looking at all shows with programming on gender identity as a whole or those focused on other gender identities, such as cisgender people.

If the FCC were to issue a ratings warning that turns on the existence of depictions and themes related to transgender and non-binary people, it would be treated as a content-based restriction of free speech. Content-based restrictions are generally presumed unconstitutional and are subject to strict scrutiny, which is difficult to satisfy.⁵⁴ We assert that the FCC would be unable to satisfy such a level of scrutiny here. Indeed, Congress’s findings within the Telecommunications Act only reach the level of finding a compelling government interest in restricting content—and so provide a narrowly tailored means of satisfying that interest that is focused on letting parents make their own choices, including to allow their children to watch content that other parents might not allow their own children to watch.

If the FCC were to issue a ratings warning that is more narrow, it would still not avoid the constitutionality concerns we raise here. For example, if it were to only require warnings or higher ratings for content that allegedly “promotes” gender identity, those warnings would be considered viewpoint-based discrimination. This type of discrimination is *almost always* unconstitutional,⁵⁵ which we affirm would likely be the case here based on language in the Notice suggesting that the FCC intends on treating affirming or normalized depictions of transgender and non-binary people as inherently more dangerous than other depictions of those same people.

Finally, we also note that such changes to the ratings system would stifle artistic expression and serve as a direct attack on companies’ creative freedom and ability to grow by telling the types of groundbreaking and engaging new stories that their audiences are asking for. Media companies should have the freedom to air programming that they choose to, including LGBTQI+-inclusive programming, just as parents and guardians should then have the freedom to decide whether their children can access such content. Inclusion is good business for media companies and appreciated by audiences nationwide: GLAAD and MRI-Simmons data show that over half of LGBTQ Americans and 3 in 10 non-LGBTQ people, (84 million Americans combined) say they are more likely to watch a television show if at least one of the characters is LGBTQ.⁵⁶

⁵³ FCC Notice at 2.

⁵⁴ See, e.g., *Police Dept. of Chicago v. Mosley*, 408 U.S. 92, 95 (1972) (“the First Amendment means that government has no power to restrict expression because of its message, its ideas, its subject matter, or its content.”).

⁵⁵ See, e.g., *Rosenberger v. Rector and Visitors of 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.”).

⁵⁶ GLAAD, *Where We Are on TV 2024-2025*, <https://glaad.org/whereweareontv24/> (last visited May 5, 2026).

In response to: “Is the composition of the board sufficiently balanced to represent a broad range of stakeholders outside of the entertainment industry? What more could the board do to include family-oriented perspectives—which are not well represented in the media industry—in its ratings process? Should additional faith-based organizations be represented on the TVOMB?”

7. No provision within existing federal law gives the FCC any authority to change the composition of the TVOMB.

The structure of the TVOMB was first proposed by the National Association of Broadcasters, the National Cable Television Association, and the Motion Picture Association of America, with these organizations being empowered by Congress to propose that composition and the TVOMB’s rating system as a whole. The FCC then ratified these organizations’ choices when it elected to not use its conditional authority to reject their proposal as permitted by the Telecommunications Act. There is no statutory basis whatsoever for the FCC to now decide that membership of the TVOMB should be anything other than what the TVOMB itself decides.

Likewise, FCC has no authority whatsoever to ensure that “family-oriented perspectives” or faith-based organizations⁵⁷ are represented within the TVOMB. Again, the Telecommunications Act shows that Congress’s intent was to use the TVOMB and its ratings system to empower *individual* parents and guardians to make decisions on what their children watch, and to allow the TVOMB to decide the specific contours of its membership. Additionally, the Notice seemingly places this concept of “family-oriented perspectives” in opposition to perspectives that would affirm LGBTQI+ identities, despite the fact that many parents, guardians, and families do maintain perspectives that actively seek to instill values in their children like honesty, compassion, and the courage to stand up for what is right and who they are.

In response to: “Is there disparity in ratings among different viewing platforms; i.e., is the same program consistently rated when it airs on broadcasting, MVPDs, and streaming platforms? Are streaming platforms more broadly interpreting what is allowable in categories intended for audiences under TVY14? Is objectionable content rated consistently across various programmers? For example, do different networks rate explicit language, suggestive language, and violent programming similarly, or are some networks prone to provide a lesser rating than others?”

8. This set of questions is largely irrelevant and should not guide any future actions taken by the FCC.

The FCC has no freestanding authority to regulate streaming platforms. And while the Telecommunications Act does not apply to streaming platforms, those same platforms have already voluntarily adopted the same rating categories as television broadcasters. Likewise, many major streaming platforms have already responded to calls from parents and guardians to control what their children watch via their creation of tools such as integrated parental controls and specialized kids’ portals that can filter or block content with certain ratings. This means that, again, there is no problem here for the FCC to try to solve despite what the Notice suggests it is considering.

⁵⁷ FCC Notice at 4.

And as the FCC has previously acknowledged, it is not necessary that “every video programming distributor nationwide agree to transmit the ratings.”⁵⁸ Indeed, in the 1990s NBC and BET did not agree to broadcast the ratings developed by the TVOMB, but the FCC nonetheless found that “participation must [only] be sufficiently ubiquitous to achieve Congress’s goals in enacting Section 551” and so affirmed that Congress’s goals in passing the Telecommunications Act could still be achieved despite this lack of universal adoption.⁵⁹

Conclusion

The FCC should not engage in efforts to push LGBTQI+ people and their families out of public life in this country. We reiterate Commissioner Gomez’s point that this Notice suggests a solution in search of a problem, as demonstrated by the TVOMB’s 2025 Annual Report which noted that only 11 comments were received between Q4 2024 and the end of 2025 related to ratings, “continuing the downward trend in ratings-related complaints observed since 2021.”⁶⁰

The possible future actions being considered by the FCC as suggested by the Notice are alarming and appear to be part of a greater agenda to abuse the discretion of federal agencies like the FCC to push certain policy goals, as seen with the FCC’s own recent announcements targeting the licensure of certain ABC stations.⁶¹ Taking such action would be a clear threat against the freedom of speech, would situate the FCC as a retaliatory arm of the federal government, and would cause a watered-down media landscape featuring only the stories and characters that the administration has approved to be available to audiences. Given the obvious and serious constitutionality concerns the FCC’s suggested actions would present, the government should instead focus on those issues which are challenging American families every day, and which parents are truly concerned about, including rising costs of living, decreasing access to healthcare, a lack of affordable groceries and rent, and so much more. We therefore recommend that the FCC abandon any ongoing and future efforts to take such action.

Sincerely

Advocates for Trans Equality (A4TE)
Advocates for Youth
AIDS United
Autistic Self Advocacy Network
California LGBTQ Health and Human Services Network
CenterLink: The Community of LGBTQ Centers
Clearinghouse on Women's Issues
COLAGE
Color Of Change
Committee for the First Amendment
Equality California
Equality Federation
Feminist Majority Foundation
Gender Justice
Georgia Equality
GLAAD

GLBTQ Legal Advocates & Defenders (GLAD Law)
Global Justice Institute
Human Rights Campaign
Immigration Equality
interACT: Advocates for Intersex Youth
Japanese American Citizens League
Lambda Legal
Movement Advancement Project
National Center for LGBTQ Rights
National Hispanic Media Coalition
National LGBTQ Task Force Action Fund
National LGBTQ+ Bar Association
National Women's Law Center Action Fund
NBJC
Oasis Legal Services
PEN America
PFLAG National
Planned Parenthood Action Fund
Reproductive Freedom for All
Rocky Mountain Equality
SAGE
Silver State Equality
The Center for Constitutional Rights
The Leadership Conference on Civil and Human Rights
The Trevor Project
Transathlete
Transgender Law Center
United Church of Christ Media Justice Ministry

⁵⁸ FCC, *Report and Order* (Mar. 13, 1998), <https://transition.fcc.gov/Bureaus/Cable/Orders/1998/fcc98035.html>.

⁵⁹ *Id.*

⁶⁰ See 2025 ANNUAL REPORT.

⁶¹ FCC, Order, DA 26-416 (Apr. 28, 2026), <https://docs.fcc.gov/public/attachments/DA-26-416A1.pdf>.