The "kid vid" crusade

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About two years ago, at the urging of child advocates, the Federal Trade Commission (FTC) spearheaded a crusade to protect children from exploitation by television advertising. The FTC staff proposed rules that would have resulted in a ban of most children's television advertising. The FTC primarily premised its far-reaching rulemaking proceeding on "unfairness," a standard with few legal precedents, rather than on "deception," a well-established standard with more confining limits. Like a true believer, Michael Pertschuk, the chairman of the Commission, led his followers into battle: "Setting legal theory aside, the truth is that we've been drawn into this issue" because of the "conviction" that "children's advertising is inherently unfair."

On June 1980, President Carter reluctantly signed legislation that cuts out the primary legal foundation selected by the FTC for its children's advertising proceeding—"unfairness" can no longer be the basis for the regulation of commercial advertising, whether for children or for adults. The law also introduces a new congressional encroachment on the authority of the independent agency, for it includes a "legislative veto" that Carter claimed was "both unwise and unconstitutional."
Crusades often have proved calamitous, particularly for the crusaders. In the 13th century, thousands of young people were lost, shipwrecked or sold into slavery as a result of the first Children's Crusade. The consequences for the FTC of its children's crusade were also, if not equally, disastrous.

Even its supporters acknowledge that the FTC made a serious political miscalculation. Its children's television proceeding provoked a massive industry counterattack and contributed to an anti-regulatory tide in Congress. Called upon to defend its "kid vid" proceeding, the FTC squandered substantial political capital. Wounded and reeling politically, the agency found itself attacked from all quarters, and Congress sympathetically considered other, less meritorious, business grievances against the agency. Only intervention by the White House saved the FTC from even more ruinous legislative action.

But it would be wrong to view the "kid vid" proceeding as merely a political misjudgment in which the FTC's faithful were undeservedly overpowered by industry's infidels. For one thing, the low quality of the FTC's staff work contributed to the defeat. Substituting rhetoric for careful analysis, the FTC glossed over the economic and constitutional implications of the proposed bans. More importantly, the FTC's crusade was fundamentally misguided. Under the cover of its unfairness theory, the FTC exaggerated its proper role with respect to child rearing and tried to impose its own notions of what is "good" for children on all American families—despite the lack of social consensus with respect to either the nature or extent of the underlying problems with commercial television.

Congress has effectively suspended for now the FTC's children's advertising proceeding. By October 15 of this year the FTC's staff will make recommendations to the Commission about the future course of the proceedings. The smoke has barely cleared from the legislative battlefield, but it is not too early to ask: What happened? How did the FTC go wrong? What future action is possible?

The FTC joins the cause

A mass medium—especially when it is of recent origin—provokes anxieties about its impact on children. In the 1930's and 1940's, many feared the effects of comic books and movies on the young. During the past decade, critics have focused on television because pre-schoolers apparently spend more time watching television than
on any other activity, and school-age children may log more hours in front of the set than in school. A variety of social ills are attributed to television. It is claimed that T.V. inhibits the intellectual and emotional development of children who prefer sitting in front of the tube to reading or playing. Violent programs are said to contribute to juvenile delinquency, while manipulative ads warp the diets and values of the young. In sum, television is creating, according to critics, a generation of fat children with decaying teeth who are intellectually passive, prone to violence, and profoundly materialistic.

In 1968, Action for Children's Television (ACT) founded a movement to change television for the young. ACT looked to the federal government for help, and initially petitioned the Federal Communications Commission for a wholesale ban on all T.V. advertisements aimed at children, on the grounds that the commercial-sponsorship system spawned programming that inculcated children with inappropriate values and failed to stimulate them intellectually. ACT's petition to the FCC was denied, but the organization did not give up. Instead, it turned to the FTC and focused on the ads themselves. As a result of ACT pressure, industry cut advertising time on children's shows, and eliminated "host selling," in which a program character pitches a product. The FTC stopped Spiderman (a children's "hero figure") from endorsing vitamin tablets made by Hudson Pharmaceutical Corporation.

Perhaps encouraged by limited successes, and knowing that Michael Pertschuk, the new chairman of the Federal Trade Commission, was sympathetic, ACT petitioned the FTC in April of 1977 for mandatory across-the-board rules banning all televised candy advertising aimed at children. The Center for Science in the Public Interest filed a companion petition requesting the prohibition of advertising of sugared snack foods, including heavily sugared breakfast cereals. Referring these petitions to the FTC's Bureau of Consumer Protection for study, Chairman Pertschuk promised that the FTC would mount a "fundamental assault" on children's television advertising. In a speech to ACT, Pertschuk condemned the "moral myopia" of industry. He said advertisers "seize on the child's trust and exploit it as weakness for their gain."

The Chairman's fervor was infectious, and in early 1978 the FTC staff presented sweeping recommendations to the full Commission. The staff proposal was complicated and confusing. A specific rule was never proposed but the report pointed the agency toward
rules that would: 1) ban all television ads aimed at children under 8 years of age; 2) ban television ads aimed at older children 8 to 12 years for those sugared products most likely to cause tooth decay; and 3) require those advertisers of all other sugared products to run “counter-ads” to encourage older children to eat nutritious foods and properly care for their teeth. The commissioners authorized a rulemaking proceeding; the agency held six weeks of public hearings on the proposals in early 1979.

Many groups and individuals participated; some expressed a variety of concerns and complaints about television programming, candy, children’s diets, and T.V. ads. Not surprisingly, the industries that were threatened by the staff’s proposed remedies began a counterattack. Candy, cereal, and toy manufacturers, advertising agencies, independent broadcasters, the three national networks, and trade associations representing many industries, fielded an army of lawyers and expert witnesses. Over 200 witnesses testified and a voluminous (if inconclusive) record was created.

The industry response was not restricted to the FTC hearing room. Coalitions of industry groups concurrently filed several lawsuits. One of these claimed that Chairman Pertschuk was biased and should be disqualified from participating in the children’s advertising rulemaking. (The District Court agreed; the Court of Appeals reversed; Chairman Pertschuk then “voluntarily” withdrew.) Another challenged the procedural innovations specially adopted for the “kid vid” proceeding.

Industry also launched an effective attack in Congress. Beginning in 1978, Congress ended regular funding of the FTC, thus requiring the agency to live hand-to-mouth on temporary appropriations. More drastic action came in November 1979 when the House passed an authorization bill that contained a series of amendments that would have killed funeral industry regulations, stopped on-going investigations into agricultural cooperatives and registered trademarks, and given either house a “legislative veto” on future rulemakings. Several months later, in February 1980, 67 Senators (including erstwhile allies such as Bayh, Cranston, Eagleton, and Stevenson) voted to terminate the children’s television-advertising proceeding. The Senate bill would have also stopped the FTC’s investigation of both the insurance industry and private standard-setting organizations, and contained a veto provision that would have required concurrence of both houses of Congress and the President to override any future FTC rules.

The conflicting House and Senate bills went to a conference
committee earlier this year. The conferees were at loggerheads until they met with President Carter in mid-April. At this meeting, an unhappy President indicated that he would accept some form of “legislative veto” but would oppose a bill that eliminated any ongoing Commission proceeding. The conference committee’s compromise package, now signed into law, contains a two-house legislative veto. This controversial provision requires the Federal Trade Commission to submit any proposed rule to Congress before it becomes effective; Congress will then have 90 days to kill the rule by a concurrent resolution adopted by both houses. It also effectively suspends the children’s advertising proceeding, forbids FTC regulation of commercial advertising by rules based on the grounds of “unfairness,” and limits future FTC rules to deceptive advertising only. Because the agency had based its rule on “unfairness,” the new law requires the FTC either to abandon the children’s advertising proposal or to start over again with a new and well-defined rule resting exclusively on deception.

The fairness of children’s advertising

In the exercise of its mandate from Congress to rid the marketplace of “unfair or deceptive acts,” the FTC has long been concerned with misleading advertisements. In three respects, however, the “kid vid” proceeding was ambitious and pathbreaking. For one thing, the FTC went forward in a rulemaking proceeding, not in an action brought against a particular firm because of a specific advertisement. The staff wanted instead a rule that would apply across-the-board to all companies. Second, never before had the FTC sought to ban entirely broad categories of ads. Third, the FTC’s action was not premised on a claim that the ads in question were untruthful or misleading in any conventional way, but instead on the vaguer notion that T.V. ads were “inherently unfair” to children. Unlike “deception” (the traditional basis for regulating commercial advertising), unfairness was a standard for which there was little legal precedent.

Unfortunately, the rigor of the FTC’s arguments did not measure up to its ambitions. A close look at the proposals reveals that the FTC never adequately answered the obvious and fundamental question: What makes children’s television advertising unfair? The FTC itself has acknowledged that the unfairness test is elusive. The most explicit statement of the test is found in the “cigarette rule,” which in fact was premised on both deception and unfair-
ness. Based on the Surgeon General's findings, that rule required substantial disclosure of health hazards on cigarette labels and in ads. Although the “cigarette rule” itself stated that it should not be regarded as a precedent compelling similar regulation of candy, it arguably stands for the proposition that it is “unfair” not to make disclosure of health hazards in ads for products the consumption of which causes “substantial injury” to consumers—that is, products for which there is a compelling showing of some harm.

The FTC staff suggested two separate reasons that T.V. ads were harmful, and therefore unfair to kids. There was one rationale for young children and another for older children. Neither was persuasive.

For young children (apparently those under 8 years of age) the Commission argued that all T.V. advertisements were “inherently unfair” because this group was unable to grasp the fundamental nature and purpose of advertising. Obviously, the purpose of all advertising is to persuade the target audience to buy the advertised product. The Commission suggested that young children could not distinguish between the ads and the programs, comprehend the selling purpose of the ads themselves, or defend against the persuasive techniques of the advertising industry.

One could ask, of course, why the effects of ads on very young children should be a matter of governmental concern. Four-year-olds rarely buy products themselves; parents typically make the actual purchases. Since parents surely understand the selling intent of commercials, what’s the harm? The FTC argued that the “unfair” ads made young children nag their parents to buy specific products. Innocent young children had unwittingly become the dummies of industry—like Charlie McCarthy and Mortimer Snerd they mouthed their master’s message. The result, claimed the FTC, was a classic double bind: Refusals by parents would generate harmful family conflict; acquiescence could lead to unnecessary consumption. In short, all families with young children needed government’s paternalistic help. Children with strong-willed parents needed government intervention to prevent conflict. Conversely, weak-willed parents needed government’s help to protect them from their strong-willed children. In either case, the disease required the same government remedy—a ban on all ads aimed at young children.

The FTC never was able to document the “harm” to children whose parents refused their requests. Moreover, there was an inadequate scientific foundation for the FTC’s underlying factual claims that children were manipulated by ads because of their
lack of understanding. Few studies purport to measure children's understanding of commercial messages; most studies presented had been commissioned by various participants especially for the rule-making. Because the available studies employed different definitions of "understanding," "selling intent," and "persuasive intent," it turned out to be difficult to assess their often contradictory conclusions. The more forthright experts admitted that the evidence was inconclusive; many studies were based on unrepresentative samples, and some were distorted in order to reach a predetermined conclusion.

Quite apart from the problems of proof, the FTC never came to grips with the implications of its theory given audience demographics. To remedy unfairness, the FTC staff suggested banning all ads "directed to or seen by" young children. But the Commission staff never described which ads would in fact be banned. How far was the FTC prepared to go to protect children from unfairness? Most ads seen by young children are on programs viewed by large numbers of older people; for only a handful of programs do children under 8 make up a majority of the viewing audience. This fact creates a dilemma the FTC never resolved. Significant "protection" for the young would require a broad ban that would eliminate ads viewed primarily by older persons for whom, according to the FTC's own theory, a ban was unnecessary. A ban limited to programs that are not viewed by a substantial number of adults and older children would only eliminate ads on one or two "preschool" programs (such as Captain Kangaroo), and little else. A narrow ban, in other words, would avoid interfering with older viewers, but would do little to protect the young from most of the ads they see. The FTC never defined the limits, if any, to its proposed ban for the protection of young children.

Advertising and older children

For older children, the FTC based its charge of "unfairness" on a different ground—one that focused on the sugared products advertised. Arguing that sugar causes tooth decay, obesity, and a host of other ills, the FTC proposed a total ban on all ads to older children for "heavily sugared" products. For all other sugar products, the FTC would require advertisers to fund "counter ads" that would tell these children that sugar was bad for them and thus counteract the harmful effects of the commercials.

Once again there were proof problems. There were no scientific
studies that could link the amount of sugar a child consumes (and hence dental cavities) to exposure to television commercials. There was plenty of scientific evidence on the record that sugar does indeed cause tooth decay. There was also evidence that television commercials persuade children to want the advertised products. But the FTC could not isolate the effect of television advertisements on sugar consumption. Moreover, it is very unlikely that such effects could ever be isolated because other variables inevitably come into the equation. For example, does advertising of sugared foods merely alter market share for similar products? Or does it increase overall sugar consumption? How do other factors, such as parental buying and eating habits or nutrition education in the schools, influence a child's sugar consumption? Obviously, no one proposed that children should be used as guinea pigs in controlled experiments to explore these questions scientifically. But in the absence of such evidence, many expressed skepticism about the FTC's claims. After all, children enjoyed eating sweets long before television. Is the level of candy consumption in the United States so different from the level in those countries where there are no T.V. ads for candy?

If the point of government intervention is the elimination of excessive sugar consumption by children because sugar products are nutritionally unsound and therefore "harmful," it is far from clear that the appropriate remedy is for the FTC to tinker with television advertising. There are more direct ways to prevent harm and reduce consumption. Like beer or vodka, should candy bars be sold only to adults? The FTC did not, of course, propose a ban on the sale of sugar products to children. Nor could it. Alteration of the American diet is not within the mandate or the expertise of the Federal Trade Commission. Instead, the agency apparently sought to reduce consumption indirectly—through regulation of advertising. Nevertheless, if an ad's "fairness" essentially turns on the FTC's approval of nutritional value of the food product being advertised, the agency is establishing itself as the arbiter of what is good for young people to eat, a role that outstrips that which Congress has delegated to it, and one the FTC has never before assumed.

The FTC also glossed over the constitutional objections to its proposed advertising bans. Why, after all, should the FTC be able to ban ads for food products that are lawful to sell to anyone? Or ban ads for young persons generally? Although not identical in scope to the rights of adults, children also have First Amendment
rights. Moreover, since 1976, the Supreme Court has recognized that commercial speech has some constitutional protection under the First Amendment's free speech clause. While there is no constitutional protection for "false, inaccurate, misleading or deceptive" speech, court decisions in this area do not acknowledge any exception for "unfair" speech which is true and non-deceptive. Whether the Supreme Court would uphold bans on television commercials directed at children is difficult to predict. But government in our free society must proceed with caution before it silences speech, including commercial speech. Indeed, the ACLU opposed the ban on advertising for young children on the grounds that it was "too sweeping a remedy that catches protected speech in its net."

Apart from constitutional problems, the proposed remedies had other unaddressed implications. For one thing, widespread bans may have curtailed children's television programming, which is presently financed, almost exclusively, by the sale of advertising. Without commercial sponsorship, most programming for young children would probably disappear. This, of course, was exactly what some advocates hoped would occur. But it is hardly obvious that the FTC is the appropriate political institution to bring this about. In its rulemaking proceeding, the FTC refused to acknowledge that its proposed remedies might have substantial impact on children's programming, and failed to contradict industry assertions that children's programming would inevitably be affected.

There were also unexplored problems inherent in the FTC's counter-ad theory, particularly in light of the professed concerns for very young children. The counter-ads were intended exclusively as a remedy for older children, but younger children would also see them. If all advertising seen by young children is "inherently unfair" because they are too easily manipulated, wouldn't government-mandated advertisements encouraging kids to eat more carrots also be unfair?

What was wrong with the FTC's agenda?

Given these difficulties with the FTC arguments, the obvious question is why did the agency proceed so broadly, eschewing a more narrowly focused case-by-case attack based on deception? The answer probably has two dimensions. First, an across-the-board rule was no doubt seen as much more effective. Many inside the agency had grown impatient with attempts to regulate advertising by challenging individual ads. Experience suggested that by the
time a case was litigated through the courts, the advertising agencies would have long since dreamed up new ways to sell the same product. More fundamentally, it would seem that the FTC's concerns went far beyond eliminating misleading ads from the marketplace. "Deception"—the traditional basis for regulating commercial advertising—probably could not be stretched far enough to deal with the reformers' underlying concerns with sugared products, the quality of programming, or the values inculcated by commercial television. The Federal Trade Commission never acknowledged that its goals were to eliminate candy bars from children's diets, to change drastically the economic basis for children's programming, or to socialize children to less materialistic values. Nevertheless, its legal theory and proposed remedies leave the impression that these broader concerns were part of the FTC's children's crusade.

In pursuing its crusade, with this broader agenda, the FTC no doubt believed it was acting in the best interest of children. However, what is best for children with respect to these social issues is largely indeterminate. Confident, long-term predictions concerning the consequences of alternative policies are impossible to make. Even more fundamentally, advocating what is "best for children" with respect to these broader social questions suggests a certainty of values about which there is in fact no consensus.

This indeterminacy with respect to what is best for children is plainly seen, for example, if one considers the legitimate concern that television advertising makes children too materialistic. To test that hypothesis one must first define what "materialistic" means, and specify variables that can accurately measure materialism. If such a variable is defined satisfactorily, one must have a model of how values are formed. There is no consensus today among social scientists about how children form their values. What we do know suggests that the process of value formation is extremely complicated and that the child himself, the child's family, peers, social class, and environment can call influence value formation. Given the large number of possible influencing variables, to determine the independent effect of television is very formidable indeed. How can one define a control group that is identical in all respects except for T.V. viewing habits? Most empirical studies do not have experimental controls but instead use either regression techniques or correlation techniques to relate one set of variables to some other variables. As responsible social scientists always point out, a correlation between two variables does not prove causality. Even if we were to prove that more materialistic children watch more
television ads, this does not demonstrate that T.V. ads are the cause of greater materialism. It could, of course, be possible that more materialistic children simply like to watch ads. Demonstrating the long-term effects of different sorts of television programming or alternative dicta poses similar methodological problems.

Even if we assume that we could demonstrate the effects of advertising on children, there remain profoundly difficult questions: How does one decide whether these effects are good or bad? What should one do about them? Such questions obviously involve value judgments. About some effects there might be a clear social consensus. For example, if it could be demonstrated that television advertising substantially increases the number of children who poison themselves with aspirin, there would be little disagreement that this was a bad effect. The critical question would then be how best to minimize or eliminate this harmful effect. Ban aspirin advertising? Ban aspirin? Improve bottle caps? The costs and benefits of alternative courses of action would have to be considered in light of competing values.

But about other effects of T.V. on children there is far less social consensus. Some parents believe that their children “are what they eat” and focus enormous energy in insuring that their children eat only the “right” foods. Some parents object to meat; others to Sugar Pops or Hershey bars. Many parents believe that absent a compelling showing of harm, there is nothing wrong with their children eating food for simple enjoyment (as do they themselves). These parents approve of and purchase the foods children request. The same lack of consensus obviously exists with respect to television programming. A mass audience exists for Laverne and Shirley and Charlie’s Angels because millions of families enjoy watching these shows. Nevertheless, it is clearly the case that in many upper-middle-class circles, one risks ostracism if one admits watching, or permitting one’s children to watch, the standard fare offered by commercial television.

Much of the disagreement over advertising directed at children, then, really has to do with conflicts over values, not simply differing scientific predictions of consequences. Many of those who are most critical of advertising directed at children are primarily concerned about the effects ads have on the socialization of children—will children believe what the reformers think they ought to believe, or will they be manipulated and exploited into believing the “wrong” things? The critics and defenders are really fighting for the minds of the next generation. The FTC not only committed
THE "KID VID" CRUSADE

itself to a particular point of view, but was prepared to impose that view on all American families.

Who should decide?

In circumstances like these, in which the effects of alternative policies on children are uncertain and there is no social consensus about what values should inform the policy, the critical question is: Who should decide? To put it more precisely, how should power and responsibility for children be allocated? This question is critical because whoever enjoys the power of decision will in effect have sovereignty over the child and be able to influence not only the means but the very objectives of child rearing.

Answering the question "who should decide?" obviously involves judgments about the proper distribution of responsibility between the family and the state, and the comparative competence of various agencies of the state. In our view, parents, not the state, should be primarily responsible for deciding what is best for their children. Parents are in the best position to know what values they wish to impart to their children; they have more information about their own children and their individual needs; and they are economically and legally responsible for their children. This responsibility includes the right to control to a substantial degree what their children watch on television, buy, read, and eat. More than any government bureaucrat, parents live on a day-to-day basis with the effects of their child-rearing decisions. Moreover, by placing primary responsibility with the family, the child himself is more likely to have a voice in decisions.

Placing primary responsibility for decision making with the family will not, of course, satisfy everyone. Some reformers no doubt believe (though they are loath to say so) that many parents are not to be trusted to make the "right decisions" for their children. Moreover, it is suggested that many parents may want to change the T.V. viewing habits (or diet) of their children, but feel powerless to do so. The advertising ban, according to the FTC, was thus meant to "help" parents by making their job more manageable. But the cost of this "help" is the elimination of choices for other parents who share neither the reformers' values nor their assessments of the risks to children of using products advertised on television. The proposed bans would have impinged on the preferences of many parents, and the rights of some television viewers as well.
Government's proper role

Although in our view the family, not the state, should have primary responsibility for child rearing, this does not mean that government has no role. In circumstances where parents' behavior poses a substantial danger to a child's well being—such as child abuse or neglect—the state has responsibility to intervene to protect children. Moreover, government can provide information and services to expand the choices for parents. But absent a powerful showing of a serious harm, it is not appropriate for an agency of the state to treat parents like children, and to mandate a uniform solution that does not reflect the values of many Americans.

From this perspective, the FTC was fundamentally off-base in its "kid vid" crusade. Seeing itself as the grand protector of children, the FTC sought to decide what is fair and then imposed its concept of fairness upon all American families. The FTC's staff report was like a lawyer's brief, hardly acknowledging the substantial disagreement among experts about the effects of T.V. advertisements. Moreover, the FTC can claim no special expertise with respect to children's diets, or the social or psychological effects of television programming. And most importantly, the agency can hardly claim the right to decide what values should inform child rearing practices in America. Nevertheless, under the banner of children's rights, this appears to be exactly what the FTC was attempting to do.

The Federal Trade Commission does have an important supporting role to play with respect to children's television advertising, especially in rooting out deception in the marketplace. There is a widespread social consensus that untruthful or misleading ads should be eliminated. Deceptive practices have no redeeming virtues, and regulation of deceptive advertising is clearly within the FTC's mandate. The agency has extensive experience in determining whether an advertisement has a tendency or capacity to deceive. The proper focus of such an inquiry is on the statements made in the ads themselves and their relationship to the products advertised. In this inquiry, under existing law, the Federal Trade Commission can take into account the capacity of the target audience, whether composed of adults or children.

This is not to say, of course, that regulation of children's television advertising on the basis of deception is without difficulty. While there are easy deception cases, the outer limits of deception are unclear. Hence an overzealous bureaucrat could abuse this label and improperly intrude into the family sphere. All prior reg-
ulation has been case-by-case not through industry-wide rulemaking. Nonetheless, the new congressional legislation does not preclude the FTC from using rulemaking to forbid certain techniques or themes if they can be shown to be deceptive. In this respect, the Commission might well challenge certain present-day practices without necessarily overstepping its regulatory bounds.

This can be best illustrated by an example. Many thematic representations in children's commercials clearly convey, through visual and verbal statements, that consumption of a product (usually a sugared cereal) can overcome a child's anxiety or fear. Thus, if the child eats his Alphabits, he can make a mean spy, snake, or fierce bull disappear. If she eats her Cap'n Crunch, she will not get lost in the jungle. If they offer Honeycombs to big menacing stone people, the invaders will be pacified.

It is widely recognized that children are afraid of getting lost, or being threatened by big, irrational creatures. Thus, these ads are designed to manipulate a child's deepest fears. Many ads directed at adults have a similar element of psychological manipulation. But perhaps it could be shown that many young children (unlike adults) take ads directed at them literally. In fact, consumption of cereal cannot be shown to diminish fear or protect against getting lost, much less pacify alien beings. If the FTC can demonstrate that some thematic representations, technical manipulations, and appeals to fantasy that are pervasive in children's television advertising are taken literally by young children, then, as to this "vulnerable" audience, such ads might be characterized as deceptive under the Federal Trade Commission Act.

It is less likely that the Federal Trade Commission could successfully demonstrate that the failure to disclose material information about the proven deleterious effects of sugar on teeth is also deceptive. Some dangerous products—such as cigarettes—impose such substantial risks that the failure to disclose the potential harm might be fairly characterized as deceptive. On existing evidence, we suspect that the Federal Trade Commission could not build a similar case with respect to sugar products, notwithstanding the claims of the FTC's staff in the Commission's 1978 report. Nevertheless, it is certainly conceivable that someday the evidence will be sufficiently compelling so that the agency might well attempt to treat these products like cigarettes—stamped with some sort of warning concerning health hazards.

In addition to having the FTC police the marketplace for deception, there are other ways government can both respect the pri-
mary role of parents and be involved with the issues implicated by the “kid vid” proceeding. With respect to diet and health, other agencies of government surely have a role to play. To the extent that foods pose health hazards, the Food and Drug Administration and the Surgeon General may need to provide more information to parents on diet and health. With respect to programming for children, there is much government can do to expand the alternatives available to families. Continued and expanded government support for non-commercial television provides an important alternative for parents who resent commercialism of network television. The FCC is also presently investigating means to augment the amount of educational programming for children on commercial stations. Perhaps most encouraging in the long run is the advent of cartridge television and video cassettes, which promise to increase enormously the breadth of programming available for children and parents.

Conclusion

One characteristic of our age is the impulse to identify something as a “social problem” and then look to government for a solution. In policy debates concerning children, various groups are often asking government to endorse either their values or their theories about how the world works. There is nothing wrong with this impulse, so long as it is recognized that not all “problems” as seen by reformers can be “solved” by government, at least without unacceptable social cost.

The reformers who initiated the “kid vid” proceeding have legitimate concerns about children’s television. But the FTC adopted the reformers’ cause uncritically, seeing itself self-appointed champion of American children, and children’s television advertising as evil and exploitative. The agency proceeded to treat the children’s advertising proceeding like a moral crusade. Crusaders have not historically valued diversity of opinion; they are typically undeterred by the lack of consensus. Rather, they take disagreement as an opportunity to proselytize, and if necessary, use coercion to force conversions.

Perhaps the most important lesson of the “kid vid” proceeding is the responsibility of those in government, before embarking on crusades, to ask: Who should decide? Posing this question at least brings to the surface the fundamental issues: the proper role of the family, the role of government, and the specific competence of a
particular governmental agency. In assessing the recommendations of various interest groups officials could ask themselves three other sets of questions:

1. What predictions, implicitly or explicitly, are being made? How good is the evidence with respect to these predictions?

2. What values, implicit or explicit, are informing the recommendations? To what extent is there a consensus with respect to these values?

3. What are the implications of this proposal for the allocation of power and responsibility between the individual, the family, and the state?

Had these questions been seriously addressed within the agency in 1977, one suspects the FTC would have behaved differently. They should address them now, before once again mounting their chargers in pursuit of the children's cause.

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