



## **POLICING THE AIRWAVES: THE DEBATE OVER INDECENCY**

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*For years, parents have complained about the rise of sex, violence and crude language on television and radio, so why is broadcast indecency getting so much attention now?*

After 90 million people, many of them kids, watched the Super Bowl's half-time performance that ended with the exposure of singer Janet Jackson's breast, some 500,000 people wrote angry letters to government officials about the rise of lewd sexuality and vulgarity on television.

Since that infamous half-time show, Congress and the Federal Communications Commission, the government agency that oversees the telecommunications and media industry, have been reviewing ways to better enforce broadcast indecency laws.

### **So, what is indecency?**

Under U.S. law, indecent programming encompasses any reference to sexual or excretory functions. The FCC prohibits broadcast radio and television stations from airing such material between 6 a.m. and 10 p.m.

The law also forbids the broadcast of "obscenity" -- the depiction of sexual conduct in a "lewd and offensive way" -- at any time on over-the-air radio and TV.

While cable and satellite TV channels like HBO do not face such restrictions, the FCC can fine regular broadcast or 'over-the-air' channels and even take away a station's broadcast rights for violating these rules.

In January 2004, the FCC leveled its biggest fine of \$755,000 against Clear Channel Communications Inc., the nation's largest radio station chain, for decency violations on the "Bubba the Love Sponge" show.

### **Backlash**

FCC officials say their agency lacks the necessary tools to compel broadcasters to follow the rules, prompting Congress to consider new laws to give the FCC more authority.

In March, the House of Representatives overwhelmingly approved a bill -- called the Broadcast Decency Enforcement Act -- that would raise fines against violators by nearly four times. Under the House bill, the FCC could fine performers -- whether disc jockeys, TV personalities or on-air guests -- up to \$500,000, a significant jump from the existing \$11,000. The Senate is considering a similar bill.

"What is at stake here is that corporations will finally be fined at levels that will make them not air indecency," says Lara Mahaney, director of corporate and entertainment affairs for the Parents Television Council, a group that has charged the FCC with failing to aggressively enforce rules. "When they make speeding tickets more expensive, they serve as a deterrent for speeding. We need that form of deterrence here."

Republican Rep. Heather Wilson of New Mexico also lashed out at the industry, accusing media companies of using sensational content to attract more viewers: "You knew what you were doing. You knew that shock and indecency creates a buzz that moves market share and lines your pockets," she told Mel Karmazin, president of Viacom Inc. -- owner of CBS, the network that aired this year's Super Bowl -- at a Feb. 11 congressional hearing.

### **Broadcasters taking responsibility**

Media companies have voluntarily beefed up their own decency standards to avoid being forced to do so.

For instance, Clear Channel suspended broadcasts of "shock jock" Howard Stern's show and fired radio personality Todd Clem, known as Bubba the Love Sponge. Clear Channel also said it would use a 20-second delay for its live broadcasts, a precautionary step to prevent the airing of indecent material.

And Viacom has promised a new zero tolerance policy going forward.

Other broadcasters, including the ABC network, owned by Walt Disney Inc., are also using short-time delays for live programs, giving station engineers enough time to bleep out or cut away from potentially inappropriate content.

### **Where do you draw the line?**

But many media executives, performers and free speech organizations criticize the existing rules as too ambiguous and vague. They say the rules lead to random enforcement and unfair interpretations of "indecency."

Marv Johnson, legislative counsel for the American Civil Liberties Union points out: "The FCC is not able to define indecency and keeps changing its mind about what it is. If the FCC can't make the determination, how can broadcasters?"

Case in point: During a live broadcast of the 2003 Golden Globe awards lead singer Bono of U2 exclaimed, "It's f---ing brilliant" upon winning the prize for best song in a motion picture. The FCC said last October that Bono's utterance was not indecent or obscene because it did not refer to a sexual act.

In the wake of the Super Bowl the FCC reversed itself in March, promising to crack down on any use of that particular word in broadcast.

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