

Comment

GN Docket No. 13-86

Submitted by: Gerald Giordano
5046 W. Camino Del Desierto
Tucson, AZ 85745

Dear Sir or Madam:

I write to urge the Commission to adopt broadcast indecency policies to prohibit the broadcast of indecent materials between 6 am and 10 pm, whether such broadcasts contain nudity or expletives, including “fleeting” expletives. I urge adoption of a “bright-line” rule prohibiting such broadcasts, which would resolve the issue of “fair notice” under the Due Process Clause that was the basis of the Supreme Court’s decision in *FCC v. Fox Television*.

A policy banning expletives and nudity from public broadcasts is, obviously, important to protect children from exposure to indecent material. I am a father of four, and have no cable or satellite television service, a decision that I made, in part, to prevent my children from exposure to inappropriate programming. The only “live” television channels available in my home are the broadcast channels in the Tucson metro area.

As I understand the Commission’s current policy, it includes an exception between 10 pm and 6 am. I submit that this exception properly balances the interests involved, allowing broadcasters to make shows intended for a more mature audience available at times when young children are unlikely to be watching.

Maintaining a “safe” period from 6 am to 10 pm will continue to allow parents to make their own decisions in permitting or preventing the exposure of adult content to their children.

I also wish to comment upon two specific issues raised in your April 1, 2013 public notice:

1. Isolated or “fleeting” expletives

Performers and broadcasters will inevitably “push the envelope” with respect to any policy regarding expletives. Allowing “fleeting” expletives both encourages such conduct, and creates a vague enforcement standard, as it would require a case-by-case analysis of whether a specific incident of indecency was “deliberate” or “repetitive” enough to warrant sanction. Maintaining a bright-line rule (from 6 am to 10 pm) is a far better policy.

Even for “live” broadcasts, I believe that broadcasters can, with little difficulty, insert a brief delay in transmission, during which any “fleeting” or unexpected expletives can be deleted.

It should not be difficult for the Commission to develop a list of specific prohibited words, which could be published and periodically updated.

2. Nudity

A bright-line rule prohibiting nudity between 6 am and 10 pm is also a far better policy. As I read the *Fox Television* case, it was the Commission’s inconsistent enforcement of such a prohibition that led to the broadcasters’ victory in that case.

I understand that depiction of nudity in movies or television shows often has legitimate artistic, scientific, or historic purposes. Such broadcasts can be permitted between 10 pm and 6 am. A blanket prohibition is the better policy between 6 am and 10 pm, as there is otherwise no practicable way to ensure that young children are not exposed to such materials. As discussed above, I am a father of four, and it is a practical impossibility to keep children from turning on a television set during normal waking hours.

For the record, I am a lawyer, but am submitting this comment solely in my capacity as a private citizen. This comment is entirely my own, with no input from any other person.

Thank you for your consideration.