

**Before the
Federal Communications Commission
Washington, D.C. 20554**

In the Matter of

FCC Seeks Comment on Adopting
Egregious Cases Policy

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GN Docket No. 13-86

To: The Commission

**Curtis J Neeley Jr's Reply
To COMMENTS OF
THE AMERICAN CIVIL LIBERTIES UNION**

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Re: GN Docket No. 13-86

Dear FCC:

The ACLU wrote to the FCC to garner donations and distort the reality of ACLU history before the courts in support of pornography. The ACLU obviously wished the FCC to voluntarily cease existing.. As explained in more detail, the ACLU urged the Commission to, in the alternative to disbanding, to limit enforcement of broadcast indecency laws to only egregious cases of misconduct, and to limit “egregiousness” enforcement to only obscenity despite recent Supreme Court assertion that §1464 uses obscene, indecent, and profane in the disjunctive.

1. The ACLU is, of course, the premier pornography advocacy organizations on Earth. The ACLU is involved in the debate on government efforts to regulate “indecent” media since enforcement began, including participation in *FCC v. Pacifica*, 438 U.S. 726 (1978), and the direct suit in *Reno v. ACLU*, 5[1]1 U.S. 844 (1997), rather than the *Printz v. United States* - 521 U.S. listed in error generally by ACLU in the comment and elsewhere demonstrating careless lack of attention to detail. The Supreme Court, expressing the early stages of senility, created an imaginary new medium construct by using the popular slang term [sic] “internet” to invalidating indecency provisions of the Communications Decency Act on First Amendment grounds misapplied as well due to the beginnings of senility and based this stretch on over-breadth due vagueness. ACLU filed near-frivolous amicus curiae in both *FCC v. Fox Televisions Stations, Inc.* (“*Fox I*”), 556 U.S. 502 (2009), and *FCC v. Fox Television Stations, Inc.* (“*Fox II*”), 132 S. Ct. 2307 (2012), urging the Court to find 18 USC §1464 unconstitutional though these pathetic attempts to promote pornography were rebuffed soundly by the ruling oligarchy filled with several pornography addicts.

¹ Adopting an “any egregious case” policy would address the FCC’s questions about the inappropriate treatment of both “isolated” expletives and “non-sexual” nakedness, and would return the Commission to the statutory enforcement posture prior to the *Pacifica* limitation to broadcasting.

² Section 1464, the basis of the FCC’s authority to regulate ALL radio broadcast indecency that now includes Wi-Fi, was originally passed as part of the Radio Act of 1927. It bars “any obscene, indecent, or profane language” broadcast to the public by any radio communication.

2. The ACLU applauded the Commission for opening this proceeding and giving the ACLU an opportunity to seek additional fiscal support from pornographers. The indecency enforcement record since the turn of the millennium showcases the dangers presented by government failure to use statutory authority to regulate *per se* unsafe speech based on common-sense terms like “indecency.” Numerous instances of broadcaster self-censorship and FCC attempts to begin enforcement highlight dangerous indecent results of failure to regulate broadcasting giving a misconception of fundamental rights to utterly unregulated “free speech” as a matter of course. In one instance, numerous CBS affiliates, fearful of a possible enforcement action, refused to air or aired only during the 10:00pm to 6:00am safe-harbor period an award-winning documentary on the first 9/11 attacks featuring actual audio recordings of responding emergency personnel containing profanity.⁴ Other affiliates of the same network aired the documentary without penalty and the documentary aired without incident twice before the controversy created exclusively by numerous CBS affiliates obviously lacking common-sense.

3. The ten-page comment by the ACLU has much more “whining” by immorality supporters that can also be shown to donors like the frivolous prior attempts (*Fox I and II amici*) to establish unregulated “free speech” held possibly as applying to any indecency and even indecency or profanity considered pornography by some communities receiving communications broadcast to the unwitting.

This reply will be much shorter but it should already be clear that the most ardent supporter of Earth's plague of pornography would use any FCC proceeding to motivate fiscal supporters from the several billion dollar United States pornography industry to protect the illegal open [sic] “internet” used primarily for pornography today.

Failure is impossible,
/s/ Curtis J Neeley Jr
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