APPENDIX

The American Civil Liberties Union is a nationwide, non-profit, non-partisan organization with more than 400,000 members dedicated to the principles of liberty and equality embedded in the Constitution. The ACLU has been in the forefront of numerous cases involving free expression, filing including an amicus brief in *FCC v. Pacifica*, acting as lead plaintiff and counsel in *Reno v. ACLU*, 521 U.S. 844 (1997), which concerned regulation of indecency on the Internet, and recently filing an amicus brief in the Second Circuit concerning the procedures used by the FCC in its recent decisions involving indecency. *Jones v. FCC*, 02-6248 (brief filed Jan. 31, 2003). The ACLU appears on its own behalf and on behalf of its members which includes both artists and others who appear on broadcast television and individuals who watch broadcast television.

The American Federation of Television and Radio Artists ("AFTRA"), affiliated with the AFL-CIO, is a diverse union representing close to 80,000 professional performers and broadcasters nationwide who work in news, information and entertainment programming on television and radio as well as in the sound recordings industry, commercials and industrials, and new technologies such as interactive programming and CD ROMs.

Beasley Broadcast Group, Inc., is the nation's 17th largest radio broadcasting company. Founded in 1961 and headquartered in Naples, Florida, Beasley Broadcast Group owns or operates 41 radio stations (26 FM and 15 AM) in ten large and mid-sized markets in the United States.

Citadel Broadcasting Corporation is a radio broadcaster serving primarily mid-sized markets in the United States. Through its operating subsidiary, Citadel Broadcasting Company, Citadel owns and/or operates 156 FM stations and 68 AM stations in 44 markets.

The Creative Coalition is the leading nonprofit, nonpartisan social and public advocacy organization of the arts and entertainment community. Founded by prominent members of the creative community, The Creative Coalition is dedicated to educating its members on issues of public importance, primarily the First Amendment, arts advocacy, runaway production and public education. The Creative Coalition does not endorse or raise funds for political parties or candidates.

Directors Guild of America, Inc. is a nonprofit corporation that serves as the duly recognized labor organization and exclusive representative for the purposes of collective bargaining of, among others, directors, assistant directors, and unit production managers of theatrical and television motion pictures. DGA has no parent corporation, and has no stock and hence no shareholders.

Entercom Communications Corp. is the nation's fourth largest radio broadcaster, operating in Boston, Seattle, Denver, Portland, Sacramento, Kansas City, Milwaukee, Norfolk, New Orleans, Memphis, Buffalo, Greensboro, Rochester, Greenville/Spartanburg, Wilkes-Barre/Scranton, Wichita, Madison, Gainesville/Ocala and Longview/Kelso, Washington.

The First Amendment Project is a nonprofit organization that is dedicated to protecting and promoting freedom of information, expression, and petition. The First Amendment Project provides advice, educational materials, and legal representation to its core constituency of activists, journalists, and artists in service of these fundamental liberties.

Fox Entertainment Group, Inc. is a multi-faceted entertainment company with operations in four business segments: (1) the production and distribution of filmed entertainment,

including the production of programming for television and cable distribution; (2) television station ownership; (3) the FOX Network; and (4) cable network programming channels.

The Freedom to Read Foundation is a non-profit membership organization established in 1969 by the American Library Association to promote and defend First Amendment rights and to set legal precedent for the freedom to read on behalf of all citizens.

Margaret Cho starred in the ABC sitcom, *All-American Girl* and a series of critically-acclaimed one-woman shows, including *Notorious C.H.O.* and *I'm The One That I Want*, which toured the country and was made into a best-selling book and feature film. Both are now airing on the Showtime Networks. Her newest concert film, *Revolution*, premieres on Sundance Channel in June 2004. Ms. Cho has been honored by, among others, American Women in Radio and Television, Lambda Legal Defense and Education Fund, the Asian American Legal Defense and Education Fund, and the National Organization for Women for "making a significant difference in promoting equal rights for all, regardless of race, sexual orientation or gender identity."

Media Access Project is a thirty-year-old non-profit public interest law firm which represents the public's First Amendment right to have access to diverse and antagonistic civic and artistic expression via the electronic mass media.

Minnesota Public Radio® operates a 35-station radio network serving virtually all of Minnesota and parts of surrounding states and produces local, regional and national programming for radio, Internet and face-to-face audiences. Minnesota Public Radio reaches 12 million listeners nationwide each week. Of those, 650,000 listen regionally in Minnesota and surrounding states. With nearly 83,000 members, it has the highest percentage of listener membership of any community-supported public radio network in the United States. Minnesota

Public Radio produces more national programming than any other station-based public radio organization in the country. National programs include A Prairie Home Companion®, Saint Paul Sunday®, Marketplace®, Sound Money®, The Splendid Table®, Pipedreams®, and Classical 24®, a live, nationally broadcast classical music service.

The National Coalition Against Censorship, founded in 1974, is an alliance of 50 national non-profit organizations, including religious, educational, professional, artistic, labor, and civil rights groups, united in the conviction that freedom of thought, inquiry, and expression are indispensable to a healthy democracy. Positions advocated in these comments do not necessarily reflect the positions of each of the participating organizations in the Coalition.

The National Federation of Community Broadcasters is a twenty-nine year old grassroots organization which was established by and continues to be supported by member stations, comprising large and small, rural and urban broadcasters distinguished by their commitment to local programming, community participation and support. The Federation's nearly 250 members come from across the United States, from Alaska to Florida; from every major market to the smallest Native American reservation. While urban member stations provide alternative programming to communities that include New York, Minneapolis, San Francisco and other major markets, rural members are often the sole source of local and national daily news and information in their communities. This membership reflects the true diversity of the American population, with 41% serving rural communities, and 46% that are minority radio services.

Penn & Teller are "a couple of eccentric guys who have learned how to do a few cool things" to the tune of a critically acclaimed Off Broadway show, national tours, best-selling books, lectures at Oxford University and the Smithsonian Institution, and Visiting Scholar status at the Massachusetts Institute of Technology. The duo has a long history in television, including

their Emmy award-winning PBS special "Penn & Teller Go Public," more than 20 appearances on "Late Night with David Letterman" and appearances on "The Tonight Show with Jay Leno," "Late Night with Conan O'Brien," "The Today Show," "Saturday Night Live," "The Drew Carey Show," and "Friends."

People For the American Way Foundation is a non-partisan citizens' organization established in 1980 to promote and protect civil and constitutional rights, including First Amendment freedoms. With over 600,000 members and supporters nationwide, the Foundation frequently has been involved in litigation and other efforts to prevent overbroad regulation of free expression in the name of "indecency."

Radio One, Inc., is the nation's seventh largest radio broadcasting company and is the country's largest radio broadcasting company primarily targeting African-Americans. Headquartered in Lanham, Maryland, Radio One owns and/or operates 67 stations (53 FM and 14 AM) in 22 markets. Radio One also programs one channel on the XM Satellite Radio system.

The Recording Artists Coalition is a nonprofit, non-partisan coalition formed to represent the interests of recording artists in public policy and legal debates that affect the music industry and the well being of recording artists.

Recording Industry Association of America, Inc. ("RIAA") is a trade association whose member companies produce, manufacture and distribute over 90% of the sound recordings sold in the United States. The RIAA is committed to protecting the free expression rights of its member companies.

Screen Actors Guild ("SAG") represents 120,000 professional actors. Headquartered in Los Angeles, SAG has branches across the United States and members work on television and feature films throughout the world.

Viacom Inc. is a leading global media company, with preeminent positions in broadcast and cable television, radio, outdoor advertising, and online. With programming that appeals to audiences in every demographic category across virtually all media, the company is a leader in the creation, promotion, and distribution of entertainment, news, sports, music, and comedy. Viacom's well-known brands include CBS, MTV, Nickelodeon, Nick at Nite, VH1, BET, Paramount Pictures, Infinity Broadcasting, Viacom Outdoor, UPN, TV Land, Comedy Central, CMT: Country Music Television, Spike TV, Showtime, Blockbuster, and Simon & Schuster.

When In Doubt Productions, Inc. is a film production company dedicated to producing films about social and historical issues and the way in which these subjects are reflected and explored through arts and letters.

Writers Guild of America, west represents writers in the motion picture, broadcast, cable and new media industries. Founded in 1933, the Guild represents 9500 writers of news and entertainment programming.

arbitrariness of the current media crackdown, there is no shortage of opportunities to see or hear programming that pushes the taste boundaries. Consider these examples:

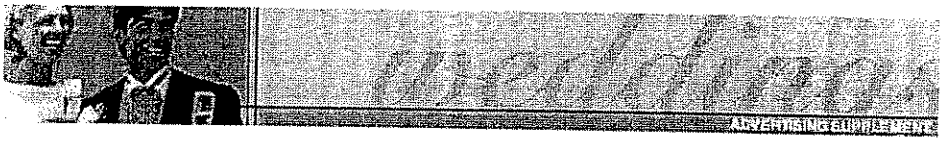
Violence: USA Network, a basic cable service that reaches nearly 90 million homes, aired the first 10 minutes of Universal Pictures' "Dawn of the Dead" on March 15, a teaser for the sister studio's very bloody horror remake. And USA's new series "Touching Evil" debuted March 12 with a protagonist who has been shot in the head; plots haven't really calmed down since.

Profanity: Amid the usual intra-judge bickering on "American Idol" last Tuesday, cameras caught Simon Cowell with his head on his right hand, just the middle finger extended. It was accidental, he said in a release: "I certainly would never make a gesture like that toward Paula or on national television."

Sex: VH1's breakfast-time show has been airing Britney Spears' "Toxic" video, featuring the singer as a flight attendant introducing a passenger to the mile-high club, and also writhing around in a skin-toned body suit with strategically placed spangles.

Nudity: Perpetually addled rocker Courtney Love revisited her stripping past, showing up on CBS' "Late Show with David Letterman" March 17 and blurting "FCC!" as she raised her top for the nonplused host. Maybe it's because the show aired so late at night or because Love was shot from behind. Either way, it generated much more head scratching over Love's antics than outrage over her skin baring, perhaps a sign that the nation has moved on.

Staff writers Scott Collins, Lynn Smith, Randy Lewis, John Horn and Bob Baker, as well as Times researcher Scott Wilson and contributor Dana Calvo, contributed to this report.



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PUPPETRY OF THE PENIS

FOR IMMEDIATE RELEASE
March 30, 2004

Press Contact: Ted Bobrow
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Puppetry of the Penis – Indecent or Art?

The Ancient Australian Art of Genital Origami Creates Advertising Controversy in Madison

MADISON – Amid a national uproar centered on the over-exposure of private parts, Puppetry of the Penis proudly announces its arrival in Wisconsin in April. The show will open in Madison at the Barrymore Theatre April 2-4 and move to the Miramar Theatre in Milwaukee April 13-25. But the issue is who *will* announce it?

Recent indecent exposure incidents have been the subject of much national debate. Recently the FCC has fined many stations for airing indecent material, causing stations to use more conservative judgment in programming and advertisements. For instance, Clear Channel radio stations in Madison have rejected airing the "Puppetry of the Penis" ads with the concern that the ads would be considered offensive material to the FCC. However, other Madison stations such as WMMM and WBZU don't see any issue with the ads and are currently airing them – adding to the growing gray area of what the FCC considers "indecent".

"We're excited to play in Madison, as a follow-up to our successful sold out 4-week run in Minneapolis," said David Foster, the show's producer. "Our show has taken world's stages by storm, creating a runaway comedy hit unlike any other. The puppeteers have performed their unique repertoire of 'genital origami' for stunned, impressed and amused crowds around the world. We'd really like to thank Janet Jackson and Justin Timberlake for bringing nudity to a national audience. With everyone talking about exposed body parts, our show fits right in."

Some people disagree. In London, religious leaders have cried foul, calling Puppetry of the Penis "absolutely vile." On the contrary, explains David Friend, one of the show's creators. "Puppetry of the Penis is a comedy. It is not sexual. We do not ever swear. And we certainly make no references to the Bible, Christianity or any religion. However, you may hear the phrase 'Jesus that's huge!' during a performance."

Since making its debut at the 1998 Melbourne International Comedy Festival, Puppetry of the Penis has grown into a global phenomenon, spreading glorious Aussie culture across the planet. To date, over a million people around the world have seen the show.

Puppetry of the Penis plays at the Barrymore Theatre April 2-4 at 7:00 pm. Tickets are available by calling Barrymore Theatre at 608-241-8633, TicketMaster at 608-255-4646 or visiting ticketmaster.com. Tickets are available for the Milwaukee performances by calling the Miramar Theatre at 414-967-0302 or by calling TicketMaster at 414-276-4545.

Study Reveals Rock Listeners' Views On Indecency

Jacobs, Edison Media collaborate for groundbreaking research

By Kevin McCabe
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Jacobs Media and Edison Media Research recently released findings of a sweeping study gauging public opinion on the suddenly hotly debated topic of indecency. Employing an approximately 60/40 ratio of men to women, the study revealed that among listeners of Classic Rock, Active Rock and Alternative, programming on network TV, cable TV and radio is rarely, if ever, perceived as too dirty or explicit.

The research clashes with the views of some Washington, DC policymakers, who, since Janet Jackson's breast-baring incident at this year's Super Bowl, have raced to clamp down on broadcast indecency through a series of investigations and fines.

The respondents were overwhelmingly familiar with the self-proclaimed poster boy for indecency, Howard Stern, and said that his program should not be susceptible to government involvement. Some 93% responded that they were aware that Stern's nationally syndicated radio program was taken off the air at some radio stations but responded to a subsequent question by indicating that people who want to listen to Stern should be allowed to do so.

Similar consensus was found in another portion of the study, where a substantial percentage of respondents replied that they would simply change stations if something on the radio offended them. Nearly 81% agreed that even if a small group of listeners

INDECENCY See Page 10

"Today's radio shows are too dirty and explicit for my taste."

Percent	Count	Answers
3.2%	434/13,693	Frequently
19.3%	2,648/13,693	Sometimes
34.1%	4,664/13,693	Rarely
43.4%	5,947/13,693	Never
100%	**13,693/13,693**	**Summary**

Source: Edison/Jacobs survey of Rock listeners.

Indecency

Continued from Page 1

is offended by a radio show's content, the FCC should not take action against it. The results indicate sharply conflicting opinions of what constitutes indecency among Rock listeners and FCC watchdogs.

To present a comprehensive look at the study's implications, R&R is dedicating two format columns for two consecutive weeks to the Jacobs/Edison project. Part One of the research recap begins on Page 54 of this week's issue.

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PART ONE OF A TWO-PART SERIES

Rated R For Rock

New survey finds Rock audience is not offended by edgy content

Hopefully, you TiVo'd or taped the halftime show from this year's Super Bowl. If you did, you may find yourself in possession of a historical artifact worthy of inclusion in the Smithsonian. The Janet Jackson "wardrobe malfunction" was the match that ignited the bonfire of backlash against perceived indecency on TV and radio and brought us to a turning point in American culture.

In much the same way that we look back at the early 1960s and say, "The Beatles changed pop music forever," and look back the late '60s and know with absolute certainty that the effects of psychedelics irrevocably transformed rock music forever, we will look back at 2004 as the time when consciousness of content in American media shifted.

The past two months have been filled with outrage from the FCC, Congress and the NFL. The flames of this conflagration have now reached the front door of one of the most hallowed — and family-friendly — television shows of the past 15 years, *The Oprah Winfrey Show*. In the latest example of the new sensitivity to indecency, the FCC is investigating complaints about an episode of *Oprah* in which the sexual activities of teens were discussed.

In a classic example of a snake eating its own tail, clips from that episode were aired on both Howard Stern's radio show and on ABC-TV's *Jimmy Kimmel Live*. Both hosts were making the point that the standards for indecency are anything but clear. Complaints to the FCC followed forthwith, and now that agency is investigating *Oprah*.

Radio Radio

Back in radio, the focus has recently shifted from air personalities (and their language) to the music. Reports are now surfacing that some Classic Rock stations are going back to songs that have aired for years and editing out expletives contained within the lyrics. "Money" by Pink Floyd and "Jet Airliner" by Steve Miller are two examples that have been cited.

This begs the question "What do the *listeners* think?" No one had thought to ask this — until now. A new survey by broadcast research company Edison Media Research and consulting firm Jacobs Media that polled almost 14,000 listeners of Active Rock, Classic Rock and Alternative stations provides some important answers.

This is the second survey on indecency performed by these two companies; the first was in fall 2002. With the current white-hot level of interest in this subject, the two companies felt it was time to talk to Rock listeners again.

It probably comes as no surprise that the Rock audience (we'll use the all-encompassing term of Rock as shorthand for all the Rock formats) is, in general, less hysterical about all this hoopla than listeners to other formats, although it's hard to tell, since no surveys of the other music formats have been done. In fact, one of the conclusions of this survey is that it might be helpful to do surveys of other formats to see what those listeners think.

Nuts & Bolts

Jacobs Media President **Fred Jacobs** says, "Our new survey argues quite convincingly that, while some of the material on the radio may be shocking, it's what the audience wants.

"These Rock radio listeners are telling us in overwhelming numbers that they want to decide for themselves whether to listen to a radio program, and they believe that the marketplace, not the FCC or watchdog groups, should make the decision about what's available on the radio. The study implies that the people who are offended by edgy morning radio shows are not the people listening."

An overwhelming majority (70%) of the Rock radio listeners in the respondent pool believe that the current focus on some radio shows is an overreaction to the Janet Jackson incident.

"What is fascinating about these people is their ability to separate the Super Bowl episode from their feelings about morning radio programs," says Edison Media Research President **Larry Rosin**. "A majority of these people think that the Jackson affair was wrong, and yet these same people think that radio personalities should be allowed to say whatever they please. Clearly, what Rock listeners are saying is that the reaction to material depends on the context."

For the next two weeks, R&R is devoting both the Rock and Alternative columns to the results of this very important survey. Here now are the key findings as presented by Edison Media Research and Jacobs Media.

Key Findings

Few Rock radio listeners are offended by what they hear on the radio. We asked respondents, "Think about the radio station you listen to most often in the morning. How often does it offend you in some way?" (See Graph 1.) More than half (55%) of respondents said "never." Only 11% of respondents said "frequently" or "sometimes."

Significantly, the answers are nearly identical among those who listen to stations with all kinds of shows, from the most to the least

Continued on Page 60

Graph 1

Think about the radio program you listen to most often in the morning. How often does it offend you in some way?

Percent	Count	Answers
2.0%	274/13,678	Frequently
9.2%	1,265/13,678	Sometimes
34.2%	4,675/13,678	Rarely
54.6%	7,464/13,678	Never
100.0%	13,678/13,678	Summary

Study Methodology

Jacobs Media and Edison Media Research collectively designed and administered this survey via the Internet. In total, 40 Rock radio stations around the United States invited their listeners to participate in the survey. The number of respondents who could come from any individual radio station was capped at 6% of the total sample. The interviews were conducted between March 12-19, 2004.

As with all Internet-based research projects of this kind, the results reflect only those who choose to participate in the survey and do not necessarily represent the views of all Rock radio listeners in the country.

Still, the 40 radio stations that invited their listeners to participate represent a broad cross-section of Rock stations, including large and small stations from large and small markets. Some have very edgy morning shows and some have very mild ones; and some play the newest rock music, and some play only classic rock.

According to audience estimates from Arbitron, just over 50 million people listen to Rock radio stations every week.

Sample Demographics

In total, there were 13,798 Rock radio listeners who completed the survey. These people were distributed as follows:

Male	61%
Female	39%
Under 18	5%
18-24	19%
25-34	28%
35-44	29%
45-54	17%
Over 55	2%
Democrat	26%
Republican	27%
Independent	34%
Attend church regularly	27%
Attend church a few times per year	19%
Rarely or never attend church	54%
Listen to station with "very edgy" morning show	49%
Listen to station with "moderately edgy" morning show	24%
Listen to station with "not edgy" morning show	27%
Listen to Alternative station	24%
Listen to Active Rock station	36%
Listen to Classic Rock station	40%

Rated R For Rock

Continued from Page 54

"edgy." This implies that people choose a show that is unlikely to offend them.

Women were only slightly more likely than men to be offended by what they hear (40% of women are "never offended"; men, 60%). Parents with children under 13 were no more likely to be offended than the group as a whole. Republican and Democrat Rock listeners had no significant difference between them with regard to this question.

As one respondent pointed out, "I am the parent of a 13-year-old boy. If I hear something potentially offensive, I have the right to change the station with my own hand. I am disturbed that the government will 'parent' me by choosing what I can and cannot choose to listen to."

One interesting twist: There was a sizable minority of respondents who said, "Shock-jock radio personalities have gone too far." (See Graph 2.) More than one-quarter of respondents (28.3%) agreed with this statement. Certain subgroups, such as women (32%), parents (32%), frequent churchgoers (40%), Republicans (35%) and Classic Rock listeners (43%), agreed with this statement in larger numbers. Among those who listen to the mildest morning radio shows, 43% agreed with this statement.

Janet Incident A Major Issue

While not personally offended by it, a majority found the Janet Jackson Super Bowl incident to be a "major issue." Our respondents had interesting views on the Jackson kerfuffle. Only 14% of respondents said they were personally offended by it, yet just over half said it is an "important issue."

We see the implication that our respondents can separate what is offensive to them and what is appropriate in different contexts. (See Graphs 3, 4 and 5.)

This is summarized by one of the web poll's participants, who said, "I believe in freedom of speech, and I believe that even shock jocks are entitled to this right. However, I think that programmers should be cognizant of what the expected audience will be.

"Without a doubt, the expected audience for the Super Bowl halftime show included children. That act was totally inappropriate, and anyone who was privy to the planned exposure should be held responsible for abusing the broadcast."

Perhaps not surprisingly, men were much less likely to be offended by Jackson's "costume reveal" than women were, but only 17% of our female respondents said they were personally offended by the stunt. Frequent churchgoers (24%) and Republicans (20%) were slightly more likely than the group as a whole to have been personally offended, but overwhelming majorities of these groups were not offended.

As might be expected, those who listen to the edgiest morning shows were the most likely to say that the incident was not an important issue (56%). Among those who listen to the mildest morning shows, only 39% thought the incident was "not important."

Well over half of all respondents, including many who thought the issue "not important," felt that someone should be punished or sanctioned for it. The entity most felt should be held accountable was Jackson herself (59%), followed by Justin Timberlake (50%) and MTV (21%). Only 34% of our respondents felt that no one should be punished for what transpired.

Howard Is Cool

Rock listeners overwhelmingly support Howard Stern. Howard Stern is the rare radio personality who, because of his exposure across many media, is well known even in markets where his show doesn't run.

Fully 98% of respondents (from a mix of markets where Stern is and isn't aired) said they have heard of him. More than 90% of those respondents were aware that Stern's show had recently been taken off the air in a handful of radio markets because of indecency concerns. (See Graphs 6, 7 and 8.)

Those who knew of Stern's removal in these markets overwhelmingly believe this was an unfair decision. When given the choice between two statements about Stern's elimination, they answered as follows:

- "They were right to take Howard Stern off the air": 20%
- "People who want to listen to Howard Stern should be allowed to do so": 80%

In every subgroup a strong majority said that people who want to listen to Stern should be allowed to do so. The groups most likely to say "They were right to take Howard Stern off the air" were listeners to stations with mild morning shows (30%) and listeners who are frequent churchgoers (32%).

Next week: More poll results and a comprehensive wrap-up with specific recommendations that address the question "So, what's next?"

Graph 2

Shock-jock radio personalities have gone too far.

Percent	Count	Answers
28.3%	3,851/13,597	Agree
42.8%	5,819/13,597	Disagree
28.9%	3,927/13,597	Neutral
100.0%	13,597/13,597	Summary

Graph 3

Were you personally offended by the Janet Jackson/Super Bowl incident?

Percent	Count	Answers
14.3%	1,961/13,721	Yes
80.5%	11,047/13,721	No
5.2%	713/13,721	Not sure/don't know
100.0%	13,721/13,721	Summary

Graph 4

Which of these statements best describes your attitude about the Janet Jackson/Super Bowl incident? (Choose one only.)

Percent	Count	Answers
9.0%	1,233/13,749	It's an important issue; the government needs to ensure it doesn't happen again.
42.0%	5,780/13,749	It's an important issue, but it's not worthy of government involvement.
49.0%	6,736/13,749	It's not that important of an issue.
100.0%	13,749/13,749	Summary

Graph 5

Which of these — if any — should be punished or sanctioned as a result of the Super Bowl incident? (Choose as many as apply.)

Percent	Count	Answers
10.5%	1,436/13,693	CBS Television
21.2%	2,906/13,693	MTV
4.0%	548/13,693	NFL
2.1%	290/13,693	CBS local TV stations that carried the game
6.4%	871/13,693	AOL, the halftime show sponsor
10.6%	1,458/13,693	Viacom, CBS's and MTV's parent company
58.7%	8,041/13,693	Janet Jackson
49.7%	6,810/13,693	Justin Timberlake
34.1%	4,675/13,693	None of these

Graph 6

Have you heard of the radio personality Howard Stern?

Percent	Count	Answers
98.3%	13,516/13,750	Yes
1.7%	234/13,750	No
100.0%	13,750/13,750	Summary

Graph 7

Are you aware that Howard Stern's program was taken off the air at some radio stations recently because of indecency concerns?

Percent	Count	Answers
93.1%	12,571/13,498	Yes
6.9%	927/13,498	No
100.0%	13,498/13,498	Summary

Graph 8

Which of these statements best describes your feelings about those stations taking Howard Stern off the air?

Percent	Count	Answers
19.5%	2,473/12,656	They are right to take Howard Stern off the air.
80.5%	10,183/12,656	People who want to listen to Howard Stern should be allowed to do so.
100.0%	12,656/12,656	Summary

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Stations Consider Tape-Delayed News

By John Eggerton -- Broadcasting & Cable, 4/6/2004 4:00:00 PM

Conventional wisdom says news and sports are traditionally exempt from indecency concerns.

But in a climate of fear, some station executives are discussing adding a tape delay.

An incident at KRON raised a red flag. The newscast was fined by the FCC after a *Puppetry of the Penis* troupe member exposed his "marionette" during a news segment.

Radio-Television News Directors Association has launched a preemptive strike: a seminar on news and indecency at April's convention. The topic was also broached between station execs and First Amendment attorney John Crigler.

Job one: How to avoid fines.

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Los Angeles Times
calendarlive.com

ttp://www.calendarlive.com/tv/cl-ca-rogues28mar28,2,1881873.story

'HE DECENCY DEBATE

Pulled into a very wide net

Unusual suspects have joined the censors' target list, making for strange bedfellows (wait — can we say that?).

larch 28 2004

anet Jackson's bare breast was one thing. But for a real sign of how sensitive the broadcast indecency issue has become, consider the case of Raquel Smashenburn.

he sight of her bare bottom was too much for executives at UPN, who ordered it obscured in the first episode of eir new sitcom "Game Over." Oh, and for the millions who didn't see it, Raquel is an animated character.

oping to avoid millions of dollars in fines and protect their licenses, the networks' gatekeepers are now rushing to over naked body parts, cut foul language and monitor anything that smacks of poor taste ... except when they're ot. The only consistent thread running through the current crackdown — which has ensnared culprits ranging om a chronic provocateur like ousted radio personality Bubba the Love Sponge to an accidental offender like BC's "ER" — is how wildly inconsistent it all seems.

BC's venerable "NYPD Blue" had to darken one of its trademark sex scenes, yet cops still utter one common arnyard epithet every episode, and the bloody corpses pile up. Radio giant Clear Channel Radio dropped Howard tern's show from six stations, citing its "inappropriate material"; Viacom's Mel Karmazin, Stern's employer, told a .S. senator that Stern's show "does not fall within the ... indecency definition." MTV, which produced the Super owl halftime show in which Jackson's wardrobe "malfunctioned," has relegated some racy videos to late-night ours, yet FX's gritty, often obscene cop drama "The Shield" is back for its third season in prime time.

n 2001, NBC chief Bob Wright sent a memo to TV executives urging them to ponder the long-term effects of BO's "The Sopranos." For all the series' success, Wright wrote, "we could not and would not air [the show] on BC because of the violence, language and nudity."

taking a position is one thing, but withstanding the audience erosion caused by cable's aggressive programming is omething else. Since Wright's memo surfaced, NBC has aired "Kingpin," a hard-hitting series about a Mexican rug lord, as well as envelope-pushing unscripted series such as "Fear Factor" and "Meet My Folks."

tern has used his show to decry what he calls censorship in the culture. But it's important to note that at least so ar, the media companies are censoring themselves — mostly from fear that the indecency debate will end up ffecting their balance sheets. As always, it's the bottom line — and not so much a naked bottom — that gets the ttention of the big media companies.

Caught in the maelstrom

Josh Schwartz
Creator and executive producer, Fox's "The O.C."

Busted for: Attempted sexual relations between Ryan (Benjamin McKenzie) and Marissa (Mischa Barton).

Punishment: Ryan and Marissa engaged in some grab-fanny last November but, post-Janet Jackson, were told by Fox to chill; the TV couple will stay celibate through the end of the season. Some double-entendres have been scrapped too.

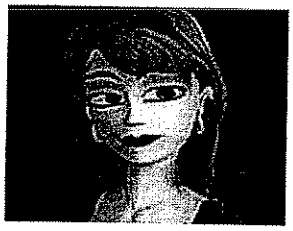
Prior offenses: Quick snippets of hot tub threesomes, background cocaine use, underage keg parties.

His reaction: "It's kind of scary what's going on now. But the show was never going to be about drugs or sex. Because you can never get away with that much on network television anyway."

Going forward: "We've had to pull back on some of the more extreme behavior the kids do over the course of the season. There's not nearly as much drinking. There's not nearly as much drug use."

What else: "I still can't believe that we got away with this, but in the pilot, our hero and heroine, Ryan and Marissa, bonded over a cigarette. It was true to the characters, but something we were never going to be allowed to do again."

'Raquel Smashenburn'
Character on "Game Over," a UPN prime-time series



Busted for: The March 10 premiere of this computer-generated, animated sitcom featured a female character's bare backside.

Punishment: Network executives forced the producers to blur the image.

The reaction: The producers were reportedly not pleased but declined to comment. The network likewise declined to comment. But then, few people noticed anyway; that debut episode attracted fewer than 2 million viewers.

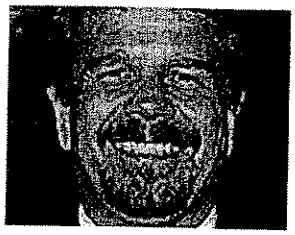
Tyra Banks
Creator and executive producer, UPN's "America's Next Top Model"

Busted for: A March 16 "orgy episode" that depicted four female contestants engaged in a late-night tryst with men in Milan, Italy.

Punishment: UPN reportedly ordered the producers to cut certain scenes deemed "inappropriate for broadcast." But as one of UPN's biggest hits, it has been renewed for two more seasons.

Her reaction: Banks wouldn't comment for this story. But she told Conan O'Brien in January that the women "were doing the nasty ... I don't want to say 'orgy' — but I just said it."

John Wells
Executive producer, NBC's "ER"



Busted for: A Feb. 5 episode of the hospital drama contained a glimpse of an 80-year-old patient's breast.

Punishment: Under pressure from its affiliate stations, NBC forced the producers to obscure the shot.

His reaction: "The incidental exposure of an elderly woman's breast in the context of a medical trauma is not comparable" to Jackson's "wardrobe malfunction" at the Super Bowl, he said in a statement.

Going forward: Wells also said such pressure is why "so many of today's producers and viewers are increasingly turning to HBO and other cable outlets that do not censor responsible storytelling."

JC Chasez
Pop singer

Busted for: What were deemed offensive lyrics.

Punishment: Dropped as a performer at the halftime show for the NFL's Pro Bowl Feb. 8, one week after the Super Bowl. NFL officials worried that the song he was scheduled to sing, "Blowin' Me Up (With Her Love)," would be too provocative with such lines as: "She was leaning on me / Getting horny / Maybe we'll get naughty."

Prior offenses: None

His reaction: "The NFL's shallow effort to portray my music as sexually indecent brings to mind another era when innocent artists were smeared with a broad brush by insecure but powerful people," Chasez said in a statement he released after being dumped.

What else: The NFL said Chasez *could* sing the national anthem at the Pro Bowl. He declined, saying, "That's not the America I love. Nor is this the NFL I love."

Sandra Tsing Loh
Humorist, author and creator of "The Loh Life" commentaries that aired for six years on public radio's KCRW-FM (89.9)

Busted for: Using the F-word in a pre- recorded Feb. 29 commentary about her star-struck admiration for Bette Midler and her musician husband's onstage proximity to the singer.

Prior offenses: None

Punishment: Station manager Ruth Seymour fired Loh on March 1, saying her use of the word might endanger the station's license and/or result in heavy fines.

Punishment reconsidered: After an outpouring of support from fans and friends in the media, several cause célèbre interviews and a conversation with Loh's engineer in which Seymour says she learned he was supposed to bleep her comments for comic effect, Seymour offered to rehire Loh, in a better time slot. Loh refused, citing a "toxic environment" at the station.

Her reaction: "It wasn't exactly a free-speech issue since I didn't intend to say that. Now I'm a free-speech pioneer along with Lenny Bruce."

Going forward: On Tuesday, KCRW's crosstown rival, KPCC-FM (89.3), announced it had hired Loh, who'll start at the Pasadena station in June. KCRW, meanwhile, shot back at Loh, claiming she's not as innocent as she's been portrayed.

Chronic offenders

Howard Stern
Syndicated talk-radio personality

Busted for: Lewd talk

Punishment: Clear Channel Radio removed Stern from six stations after he allowed a guest to utter a racial epithet on his Feb. 23 broadcast. On March 18, the FCC fined his employer, Infinity Broadcasting Corp., for a 2001 broadcast. He remains on about three dozen other stations.

Prior offenses: One broadcasting research group estimates that half of all FCC fines for broadcast indecency since 1990 — about $2 million — have been assessed against Stern.

His reaction: He claims that Clear Channel acted after he began attacking President Bush and urging the election of Sen. John Kerry. "They thought this would be a good political issue, to keep everyone distracted from what's happening in the Bush administration," he said on a recent show.

Going forward: Has threatened to quit broadcast radio and take his show to the less-regulated satellite radio services if Congress passes legislation drastically increasing maximum fines for indecency.

What else: Compares his agony to "Jesus on the cross, having his skin pulled."

Steven Bochco
Executive producer and co-creator, ABC's "NYPD Blue"

Busted for: A steamy sex scene between "Blue" costars Esai Morales and Jacqueline Obradors on the March 2 episode. After 11 seasons of partial nudity and strong language on the series, ABC censors struck.

Punishment: ABC darkened the scene to obscure certain body parts.

His reaction: After ABC asked him to alter the scene, Bochco compiled a highlight reel of previous episodes when "Blue" had shown at least as much skin. "I'm disregarding them and doing the show to the same standards and rules we established 11 years ago," he says.

Going forward: "I don't know if [this] is a battle you can win these days." On the other hand, he doesn't think the current climate will suppress television for long. "Inevitably, even kicking and screaming, the medium does get pulled into the future," he says.

Bubba the Love Sponge
Radio personality

Busted for: Airing seven conversations in 2001 from cartoon characters like Scooby Doo in which they spoke about sexual acts including masturbation and described in detail a male's genitals. Some of these conversations were, according to the FCC, "inserted between advertisements for Cartoon Network's Friday night cartoons that are identified as 'provocative adult cartoons to help you get your freak on.' " Dialogue included Alvin the Chipmunk complaining that he hadn't had sex in almost six weeks.

Punishment: Clear Channel fired Bubba on Feb. 24, after the FCC imposed a $755,000 fine against the company — the steepest fine ever levied against a broadcaster by the commission.

Prior offenses: In 1998 the FCC fined Bubba (whose birth certificate reads Todd Clem) $23,000 for indecent material that stemmed from several segments aired in 1997 and 1998 that included descriptions of enemas, child molestation, prison rape and a fictitious serenade between President Clinton and White House intern Monica Lewinsky. In February 2000, Clem broadcast from the studio a stunt in his station's parking lot in which three other men castrated and killed a boar during the station's "Roadkill Barbecue" show. Clem and his cohorts pleaded not guilty to animal cruelty charges. On Feb. 28, 2002, all four men were acquitted.

His reaction: "I am deeply saddened and confused by the actions of Clear Channel," he said in a statement posted on his website Feb. 26. "I have always striven to be a responsible broadcaster and entertainer. The success of my shows, my deep involvement in the community … fully attests to that belief."

Provocateurs

Bono
Lead singer of U2

Busted for: Using the F-word while accepting a Golden Globe Award on Jan. 19, 2003, for U2's song "The Hands That Built America."

Punishment: None yet. On March 18 of this year, the FCC deemed the singer-activist's comment "indecent," overturning an earlier ruling by its enforcement bureau. No fines were imposed against the singer or NBC.

Prior offenses: None.

His reaction: "You can always cause a stir with an expletive, and it's not something that I'm conscious of.... I don't mean to offend anyone," he told Reuters.

Going forward: "I swear I won't swear," Bono told Reuters before this year's Golden Globes.

Janet Jackson
Pop singer

Busted for: Exposing her right breast on national television during the halftime show at Super Bowl XXXVIII on Feb. 1.

Punishment: Lost her spot as a presenter on the annual Grammy Awards telecast one week later. CBS instituted a five-minute video and audio delay for the Grammy telecast. She's also out of the running to portray Lena Horne in an ABC-TV movie about the singer's life.

Prior offenses: Sexually provocative song lyrics, music videos and album covers. In 1993, Jackson appeared topless on the cover of Rolling Stone, her then-husband's hands strategically covering her breasts.

Her reaction: Tearful videotaped apology. In her first interview on the subject, printed in Ebony magazine's April issue, Jackson says: "It was not intentional. It was a costume accident ... That was basically it."

Going forward: Her new album, "Damita Jo," is due Tuesday and is widely expected to enter the national sales chart at No. 1. (Review on Page E-44.) The cover photo shows Jackson from the side, nude from the waist up, her arms crossed over her chest. She has appearances slated for Monday on CBS' "The Late Show With David Letterman" and subsequently on ABC's "Good Morning America" — which will use a five-second audio and video delay — Fox's as well as "On Air With Ryan Seacrest" and NBC's "Saturday Night Live."

Justin Timberlake
Pop singer

Busted for: Ripping the bodice off Jackson's outfit during the Super Bowl performance.

Punishment: Reportedly required to apologize during the Grammy Awards broadcast to keep his role as a performer.

Prior offenses: None

His reaction: "I know it's been a rough week on everybody," he said on the Grammy telecast. "What occurred was unintentional, completely regrettable, and I apologize if you guys are offended."

Going forward: Recently backed out of co-hosting ABC-TV's "Motown 45" anniversary special, which will be taped on April 4 in Los Angeles and air May 3. Timberlake says it is because he is too busy working on his first movie, not because of criticism over his role in the Super Bowl incident or flak he got because he is white and never recorded for Motown.

And yet, life goes on

OK, so there's a decency crusade raging through the airwaves. Yet in keeping with the seeming

Rocky Mountain News

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RL: http://www.rockymountainnews.com/drmn/music/article/0,1299,DRMN_54_2759165,00.html

Hear no evil

Broadcast words, actions stir efforts to clean up 'dirty' airwaves

By Mark Brown, Rocky Mountain News
March 27, 2004

Linda McConnell © News/2003

KRFX-FM morning DJs Rick Lewis, left, and Michael Floorwax have taken intense indecency awareness training.

Forget Reaganomics. This is how the trickle-down theory works in 2004:

Janet Jackson flashed a breast at the Super Bowl.

Advertisement

So now in Denver, live radio is history.

Jackson is old news, but the fallout is finally raining down. After years of setup by shock jocks Howard Stern, Opie and Anthony, some guy called Bubba the Love Sponge and more, Jackson's stunt put the match to the fuse.

None of the offending disc jockeys is from here. None of their syndicated programs was even carried in Denver. No station in this market has ever received an indecency violation notice from the Federal Communications Commission.

Yet because of the blowup, radio throughout Colorado has changed from the way it was only a few weeks ago. Because of the threats of huge fines and vague decency guidelines:

- Virtually everything you hear on Denver airwaves now is either prerecorded or tape-delayed.
- DJs feel muzzled by new restrictions on what they can say. They've been told to keep it clean or else.
- Rock songs that have been played for a quarter-century are suddenly being pulled and re-edited.
- Songs that already have been censored with editing equipment are being re-edited to make them even cleaner.
- From here on out, DJs have to sign contracts personally taking the blame for any indecent material on their shows.

Hands are tied

Even KBCO's hallowed Studio C - the bastion of rock tastefulness - is put on a four-second delay now on the unlikely chance that Dave Matthews or Lyle Lovett will take off on a profane rant if they break a guitar string.

It has swept the country so fast everyone is reeling from it. It's a brave new world out there and we have to figure out how to navigate it," says Mark Remington, vice president for Clear Channel Radio, which owns KBCO-FM (97.3), KRFX-FM (103.5, the Fox), KTCL-FM (93.3), KBPI-FM (106.7) and a host of AM stations in Colorado.

It's like punishing your kid because a kid three states away did something wrong, but broadcasters feel their hands are tied. Even as radio professionals think it's unfair - and privately they seethe about the hypocrisy of it all - they're scrambling to have nothing to chance.

"This is just like another witch hunt," says Jeff Pollack, head of the Pollack Media Group, an L.A.-based international radio

consulting firm. "It *does* affect you. People are going to be much more conservative. People are running in fear. Broadcasters are very concerned, as they should be. This is about as bleak as it has ever been for an environment of being creative."

"I am paid to help protect our license against these things," says Cat Collins, program director at KQKS-FM (KS107.5), Denver's successful rap/hip-hop station. "It doesn't matter politically how I feel about it."

Big chill

The threat of new half-million-dollar fines and the possibility of a station losing its license to broadcast has tossed a distinct chill into the industry that up till now has been the front line of free speech.

"Even for one violation, if it's bad enough . . . you can lose your license. For a general manager, that's a death knell. Nobody wants to be the scapegoat," Remington says.

The result is a wave of self-censorship on a national and local level. The FCC has given only broad guidelines on what's acceptable; it's up to the stations to make sure they don't cross a line that they can't even see.

"What we're trying to do is insulate ourselves from a mistake," says Mike O'Connor, director of programming for Clear Channel. "These are really just extra precautions to protect us at a time when, frankly, there *is* a witch hunt going on."

"I don't blame the broadcasters. The broadcasters are put in a very difficult place," says Pollack. "The commission has forced broadcasters into a very tough position and a lot of it is unwarranted. Clear guidelines really need to be established. In the climate that we're facing, everything seems to be under scrutiny."

Drawing the line

FCC chairman Michael Powell has been adamant about cleaning up the airwaves, and thus far has levied more fines than ever before in FCC history. When the Jackson flap happened, Powell immediately condemned it and pushed for stricter fines.

Former Clear Channel head Randy Michaels held a conference call with his station managers shortly after Bush came into office to tell them the climate had changed and "pleaded with managers to make sure we're in total and complete compliance," O'Connor says.

"They've been waiting for something to happen to create an environment where they could go after these jocks," Pollack contends. Even though it's apples-and-oranges - a singer on a sports halftime TV broadcast during prime time versus radio shows designed for adults - Jackson's stunt pushed all the buttons.

That's part of what happened here - people were so outraged that you can't even watch a football game anymore without someone sneaking something in," Remington says. "It was like a lightning rod.

Yes, (radio talk shows) go over the line once in a while. Of course they do. You slap them for that. But is this the case for the mass hysteria we're seeing around the country?" says Pollack. "The whole question is if I'm disgusted, I can turn off the radio. I don't like the government telling us what they perceive as being decent or indecent.

If you have one or two people or even 1,000 people complaining about a show, should that be enough to take a show off the air? Should it be enough to create such an environment of financial crisis in terms of the amount of fines?" Pollack says. There will always be people who have problems with everything."

FCC officials confirmed some information for this article, but wouldn't speak on the record as of press time.

Fines that hurt

Many thought Infinity wrote off the Howard Stern fines as the cost of doing business - he has garnered about $2 million in fines in the past 14 years while bringing in a reported $100 million in revenue a year.

The FCC is raising those fines to make them more painful.

"The previous fines were a max of $27,500 (per violation)," Remington says. "Take it up to a half-million dollars and when someone starts messing up, that gets your attention."

Everyone at Clear Channel has had renewed indecency awareness training, including sales people, Remington says. KBPI's morning-show team was pulled off the air for two days when management thought they may have said something inappropriate; they were reinstated when management found no wrongdoing.

Air talent on the front lines - the Fox's *Rick Lewis & Michael Floorwax*'s morning show, KBPI's morning Locker Room crew, KHOW-AM (630) talk-show hosts Scott Redmond and Bob Newman - have been sat down for even more intense talks about what they say and do on the air.

"We *had* to. To not do so would be suicidal, for them and for us. So yeah, we seriously sat down with folks," Remington says. "We've seriously looked at our way of doing business differently."

Clear Channel acknowledges that some of its on-air personalities aren't happy with the new guidelines, but they have no choice.

"If we don't have a license, they don't get to yap on the radio. It's that simple," O'Connor says.

"Sophomoric humor is not banned by the FCC," O'Connor notes, saying the FCC is focused on "patently offensive descriptions of sexual and excretory organs or acts."

When in doubt, drop it

Context also plays a vital role in whether something is deemed indecent. If a morning show team makes graphic sexual jokes, it could bring down the wrath of the FCC. However, when talk radio is tackling subjects such as Kobe Bryant or the CU rape allegations, graphic descriptions of the allegations are generally seen as protected free speech.

That's the dilemma Howard Stern finds himself in. The FCC has gone after him for blunt talk about sex on his syndicated radio show. Stern has fought back, showing that Oprah Winfrey has broadcast similarly explicit descriptions of sex acts without a problem.

"Most of what our guys do is on the up-and-up anyway. It's more the occasional caller who might get through and drop a few f-bombs. It's not like they have to change their whole shtick," Remington says.

But, he says, "if you have any doubt . . . pull it off until we find out where the lines are."

That includes classic rock songs that have been played on the air for decades up till now. Clear Channel went back through its song database and made changes to everything from Steve Miller's *Jet Airliner* to Nine Inch Nails' sexually explicit *Closer*.

"We're scrutinizing every song, both new and existing. The law doesn't discriminate," O'Connor says.

"But the most important thing is to get hold of our (on-air) talent. The FCC seems to be focused on performances or speech. We're going to get to everything we can and hopefully not make any fineable mistakes," O'Connor says.

S107.5's Collins went through much of the same tweaking, even though the focus of the FCC so far has been on talk rather than music content.

"I've had a meeting with my staff to explain potentially how serious one of their mistakes could be," Collins says. But knowing the FCC is putting more scrutiny on radio stations . . . my oversight has become a little more focused on the content and the lyrics of the songs we play."

Representatives for Entercom, which owns KQMT-FM (99.5, The Mountain) and KALC-FM (105.9 Alice), were unavailable to talk about changes.

INSIDE RADIO

Tuesday, March 23, 2004

Editor: Tom Taylor (609) 883-3321

Stations are pruning their Pink Floyd and cleaning up Steve Miller's "Jet Airliner." What's going on? The indecency scare has rippled down to station playlists, causing programmers to pull or edit some of the real staples of rock and CHR. Gone is the "BS" in Pink Floyd's "Money", and the "funky s-t in the city" line from Steve Miller Band's "Jet Airliner." Also getting sanitized are The Who's "Who Are You?" and "Jeremy" by Pearl Jam. One classic rock programmer says it's odd that 25-year-old songs that have literally made billions of impressions now get neutered. It may be that rock listeners expect to hear those words and don't object to the FCC. While CHR and urban radio have their own issues — dating back to the explicit language in Prince's "Erotic City." And the actual f-word in the title of at least one current CHR track. Consultant Guy Zapoleon tells *Inside Radio* that "with most Top 40s being mothers-and-daughters stations, broadcasters have to be responsible and mindful of what the audience can tolerate in terms of objectionable content. The problem is what the leading-edge audience thinks about bleeping out or editing. If the song becomes massively edited, you have to question whether to play the song altogether."

No FCC indecency fines yesterday. If the FCC was indeed working on about a dozen possible fines as it said a couple of weeks ago, we've still got a half dozen or more to go. Last Friday's FCC confirmation of an ancient fine against Infinity's "Wild" WLLD in Tampa set the Wonder Machine going again: that fine dated from a broadcast of the live "Last Damn Concert" in 1999. That was five years ago. The case is old enough to go to kindergarten.

Entercom buys Providence's WWRX from Stephen Mindich — and will simulcast Boston's WEEI on it. David Field takes the $14.5 million opportunity to enter the southern New England market and simulcast his highly successful Boston sports talker. There will be some local Providence content. But the deal gives Entercom a chance to spread its big new investment in afternoon talker Glenn Ordway. He signed a five-year deal with 'EEI three months ago (December 22, 2003 *Inside Radio*). Speculation then was that Entercom would aggressively look to syndicate him, and now it can do that in-house, when the LMA with WWRX begins May 1. So who's the seller? Boston Phoenix publisher and station owner Stephen Mindich. He acquired WWRX, Westerly, RI in late Summer 2000 and paid $16 million for it. That's when he was extending his 'FNX Network both north and south from his Boston base of WFNX. But Providence never really fit in, and eventually WWRX started doing separate programming. It's a class B at 103.7 and should fill out WEEI's signal south and west of Beantown. Broker: Dick Foreman, for the seller.

Arizona station owner Rick Murphy has his eyes set on a new career — in the U.S. House. Murphy announces he'll work to win the Republican nomination for a congressional seat currently held by freshman Rep. Trent Franks. There's a GOP primary September 7 and Murphy says he plans to spend as much as

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Billboard

March 13, 2004

SECTION: UPFRONT; Articles

LENGTH: 991 words

HEADLINE: Radio Reacts To **Indecency** Flak

SOURCE: Print

BYLINE: BRAM TEITELMAN

BODY:
It all started with Janet Jacksons breast.

The singers "wardrobe malfunction" at the Super Bowl put the Federal Communications Commission on the warpath to stamp out **indecency** and hold congressional **indecency** hearings.

As the federal storm gathered, Clear Channel led **radios** self-regulation on the issue. It fired longtime Florida-based morning host Todd "Bubba the Love Sponge" Clem and pulled Howard Sterns syndicated morning show from the six Clear Channel stations carrying it. Clems program was cited by the FCC in a recent $715,000 **indecency** fine against Clear Channel in January.

Viacom-owned Infinitythe company from which Sterns show originatesalso reacted. Infinity executives John Sykes and Joel Hollander issued an internal memo Feb. 18 outlining the FCCs current definition of **indecency** and mandating that any show with live phone calls or controversial content should have a delay in place.

The memo also issues content guidelines on avoiding **indecency.** "Failure to abide by this policy is grounds for harsh discipline, including immediate termination," the memo states.

An Emmis Communications spokesperson tells Billboard sister publication Airplay Monitor that Emmis is preparing a zero-tolerance policy on **indecency** as well.

Clear Channels new Responsible Broadcasting Initiativeissued one day before **radio** division CEO John Hogan took the stand before Congressstates that any DJ accused of **indecency** will be suspended and immediately terminated if the jock is found to have violated **indecency** codes. It also states, "There will be no appeals and no intermediate steps."

In addition to the measure, Clear Channel is modifying its talent contracts so that any jocks accused of **indecency** will be financially liable for part of any fines levied against the station by

the FCC.

LISTENING CLOSELY

Now stations like modern KBZT (FM 94/9) San Diego are re-examining the music they play.

"The main thing weve done with this FCC witch hunt thats going on is taken a real close look at the music library and made sure there werent any **songs** in there that we have overlooked," PD Garret Michaels says. "There are quite a number of **songs,** particularly from the grunge era, that occasionally sneak in an f word, and sometimes those are buried in the mix.

"In light of whats going on out there, theres so much watchdogging that we want to be careful and make sure we dont get fined on a technicality," he says.

Michaels cites such core library tracks as Tools "Sober" and Alice in Chains "Heaven Beside You" as **songs** that the station has re-edited.

Regardless of the outcome of the congressional hearings, the FCCs guidelines or individual **radio** groups mandates, the developments of the past several weeks prove that **radio** is entering previously uncharted territory.

"Everything has changed," says one PD who requested to remain anonymous. "Its obvious now that **radio** companies that have 1,300 stations or 600 stations or 200 stations will not hesitate to blow somebody out and ruin one particular **radio** station, or even one particular network, for the protection of its entire network."

SLIPPERY SLOPE

And the commission might be stepping over the line in attempting to decide whats **indecent.** A poll conducted by USA Today found that popular opinion did not back the FCCs crackdown on **indecency.** Twenty-seven percent of the respondents said that if people did not like what they were watching or hearing, they should just turn it off, while 16% said the FCC should label shows with questionable content and let listeners decide for themselves.

The FCCs current guidelines consider three criteria when determining whether something is **indecent:** the explicitness or graphic nature of the description of sexual or excretory organs or activities, whether the material dwells on or repeats at length those descriptions and whether the material appears to pander to or is used to titillate or is presented for shock value.

But many of the programmers contacted for this story say the FCCs current guidelines for **indecency** are too vague for them to be completely sure that theyre avoiding the use of **indecent** material.

"Weve scrutinized some bits that have been on the station for years andgiven the current, scary environmenthave moved to edit them somewhat to try to ensure that they dont violate a very vague set of rules," another PD who asked for anonymity says.

"Thats based on the Bubba decision, where it appears that [the FCC was] fining WXTB [Tampa, Fla.] and Clear Channel for what was inferred rather than what was said," the PD adds. "To my knowledge, that hasnt happened in the past. In my mind, were now headed down a particularly slippery slope."

"Any time you start to talk about regulating free speech or limiting free speech, that can be a scary topic," another programmer says. "The biggest thing this has done is really made talent uneasy about what to say and what can be said . . . It would be beneficial if the FCC would come out and let everybody know whats **indecent** and whats not."

Some stations have taken a closer look at their production. "Its more than just what the jocks are saying, its also the messages that were relaying in between the records," another programmer

says.

"There were a couple of liners that we thought were inappropriate," the PD adds. "For us, its not just the sex stuff but any sort of drug references." That includes the liner "Theres a fine line between genius and insanity. Unfortunately, we snorted it."

Others say theyre keeping things status quo.

"So far, I havent changed a thing," active KRFR (Real Rock 104.3) PD Alex Quigley says. That includes the stations risqu liners, which remain on the air.

"What was good enough two weeks ago should be good enough now," Quigley says. "Were not going to change everything suddenly, which is what I feel Clear Channel did. Howard Stern wasnt **indecent** one week ago? Its the same show it has always been."

LOAD-DATE: March 10, 2004

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HOTLINE:[All Editions]

Boston Herald. Boston, Mass.: Mar 26, 2004. pg. E.04

Full Text (747 words)

opyright Boston Herald Library Mar 26, 2004

ewport Jazz sets 50th bash

George Wein sure knows how to throw a party. The founder of the Newport Jazz Festival is marking the 50th anniversary of the vent with a 2004 lineup that's literally a Who's Who of modern jazz.

Among those appearing on one of the three stages (up from two in the past) at Fort Adams State Park on Aug. 14 are George hearing, Branford Marsalis, Ron Carter, James Moody, Jackie McLean, Dave Brubeck, Marian McPartland, Phil Woods, Harry Connick Jr. and Clark Terry. The Aug. 15 slate includes Ornette Coleman, Wynton Marsalis and the Lincoln Center Jazz rchestra, Wayne Shorter, Herbie Hancock, Roswell Rudd, Dave Douglas, Regina Carter, Chico Hamilton, Lee Konitz, Peter Cincotti, James Carter and the Mingus Big Band.

"I wanted to do a different kind of festival from what we've been doing," Wein said. "I wanted to bring in a lot of individual musicians, older and younger, to reflect that jazz is still a great music and doesn't have to be just a music of the past. At the same time it's got a great history, so let's acknowledge both aspects of it."

The JVC Jazz Festival-Newport kicks off on Aug. 11 with a sacred music concert by Brubeck at Rogers High School in ewport. Tickets go on sale today at 10 a.m. Call 866-468-7619 or go to www.ticketweb.com. For more information, go to www.newportjazz50th.com. - BOB YOUNG

CAN WE SAY THAT?

hock jocks aren't the only radio people feeling the heat from the Federal Communication Commission's crackdown on broadcast indecency in the wake of Janet Jackson's Super Bowl surprise. Now classic rock stations around the country are "retiring" hit songs because a word or two in the lyrics might irk the FCC.

In Boston, WZLX-FM (100.7) program director Beau Raines said his station has taken Steve Miller's "Jet Airliner," Pink Floyd's "Money" and the late Warren Zevon's "Lawyers, Guns and Money" off the air because there's at least one cuss word in each.

The irony, of course, is all three songs have been played for decades on thousands of stations. But until the FCC clearly defines what it finds objectionable, programmers are being extremely cautious.

Raines said he preferred to at least temporarily retire those tunes rather than play edited versions. "We don't play edits," he said.

DRIVING A STAKE INTO `ANGEL' FANS

TVguide.com confirmed yesterday that former "Buffy the Vampire Slayer" star Sarah Michelle Gellar will not be appearing on er spinoff's finale set for May 19. Joss Whedon, creator of both series, said it was both the actress' busy schedule and reative reasons that pre-empted a final appearance by Gellar - whose character is the object of the affections of both Angel David Boreanaz) and Spike (James Marsters).

Whedon doesn't want Angel's send-off to "revolve around a guest star. We will deal with the issue of Buffy and how much she means to Angel and Spike, but I want to end the show with the people who've been in the trenches together, the characters who have lived - and occasionally died - together . . . the regulars." - SARAH RODMAN

MERRIMACK REP SETS FALL SEASON

Merrimack Repertory Theatre celebrates its 26th season this fall with a world premiere, classics by Arthur Miller and Harold inter and the return of the Reduced Shakespeare Company.

The season opens with "The Complete History of America (abridged)" by the trio of the Reduced Shakespeare Company (Sept. 0- Oct. 30), followed by Miller's "The Price" (Nov. 11-Dec. 11).

The world premiere of a new adaptation of Leo Tolstoy's "The Kreutzer Sonata," adapted by and featuring Larry Pine, will bow Dec. 30-Jan. 29, followed by Ronald Harwood's "Quartet" (Feb. 10-March 12, 2005), Tazewell Thompson's "Constant tar" (March 24-April 23, 2005) and Pinter's "The Homecoming" (May 5-June 4, 2005).

ubscriptions are available at 978-454-3926. - TERRY BYRNE

O INSTEAD WE . . . ZZZZZZZZZZZZZ

Boston's all-politics-all-the-time-summer of 2004 just got even nerdier with the news that the Boston Globe Jazz & Blues Festival, previously announced as moving to a time closer to the Democratic National Convention, is now going "on hiatus" until 2005. Among the choices offered by the paper in the music festival's stead: the Globe Presidential Film Series, IDEAS Boston 2004 and Globe Talks. - BOB YOUNG

Correction

The Provincetown Repertory Theatre is planning an all-star staged reading of "All About Eve" as a benefit this summer. Earlier his week we named another P-Town theater company.

Compiled by Joel Brown from staff and wire reports.

Caption: GELLAR

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Section: *THE EDGE*
SSN/ISBN: 07385854
Text Word Count 747

Plain Dealer (Cleveland, Ohio) March 26, 2004 Friday, FINAL / ALL

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Plain Dealer (Cleveland, Ohio)

March 26, 2004 Friday, FINAL / ALL

SECTION: ARTS & LIFE; Pg. E1

LENGTH: 694 words

HEADLINE: Indecency uproar stirs a loud silence

BYLINE: TOM FERAN, PLAIN DEALER COLUMNIST

BODY:
Warren Zevon saw what was coming, long before and entirely apart from the diagnosis of lung cancer that killed him in September.

Bill Louis remembers the musician visiting WNCX FM/98.5 six years ago to promote a new album. He performed for an hour in the studio on Louis' lunchtime "Classic Cafe."

"One of the **songs,** 'Lawyers, Guns and Money,' had an S-word," Louis said. "He wouldn't talk on the air, but off the air we were talking. He said that **song** is 3 minutes, 29 seconds on the 'Excitable Boy' album and said he got into a back-and-forth about not editing it for a greatest-hits package. They took out '[expletive] hits the fan,' and he said it bummed him more than anything he'd been associated with in music.

"He said if it came to that **song** being played edited, he'd rather not have it played. He requested the **song** never be played again."

Be careful what you ask for.

"Lawyers, Guns and Money," which played for years without complaint about its fleeting use of what has been called a "barnyard epithet," is one of the **songs** that was pulled from the **playlist** at WNCX amid the current frenzy over "on-air **indecency.**"

"I think he would have some great things to say about this if he were around," said Louis, the program director who has worked at WNCX since 1987. "After Super Bowl Sunday, everything changed."

After Super Bowl Sunday - when a stupid stunt by Justin Timberlake and Janet Jackson provided a nanosecond glimpse of her right breast that became the most-played footage since the Zapruder film - the S-word and a few others hit the fan.

The Federal Communications Commission started imposing big fines for past indiscretions. The U.S. House of Representatives voted to dramatically increase fines for broadcast **indecency** up to $500,000 per infraction. The U.S. Senate, considering similar legislation, could approve the House bill or its own. President Bush has promised to sign it.

But the standards remain vague. The U.S. Supreme Court has defined obscenity but not clearly defined "**indecency.**"

So **broadcasters** started running for cover by selectively dropping shows and announcing "zero-tolerance" policies.

The S-word runs downhill. It landed at WNCX, among other places, and became an odd blend of crusade, promotion and self-defense.

"The way it started," Louis said, "was we had people vote for the greatest album of all time to get the top 98. We played entire album sides for 30 days at 2 o'clock, and we were going to play the entire No. 1 album two weeks ago Friday. But within three days of starting, the Super Bowl thing happened."

The No. 1 album was Pink Floyd's "Dark Side of the Moon." The first track on side 2, "Money," has the line, "Don't give me that do goody good [expletive]."

"No one has edited that version of the **song** ever in Cleveland," Louis said. "It's probably played a solid 5,000 times since it was released in 1973."

Under the zero-tolerance policy, and a potential fine of $275,000, Louis felt he couldn't risk playing it. "There's no such thing as safe harbor," he said. "We had to pull it or modify it. It could be edited, but even fleeting references can be handled as gratuitous usage. The law hasn't changed, but the enforcement has changed. And if they hear a bleep, I'll be [bleeped] off, which is another word you can't say."

Louis explained the situation to listeners. "Reaction was remarkable," he said. "There was a sense of outrage and rightfully so." About 23,000 e-mails and maybe a couple thousand phone messages went to Sens. George Voinovich and Michael DeWine in support of "Money."

For now, however, it remains unplayed - along with **songs** such as Zevon's, Steve Miller's 1977 "Jet Airliner" and The Who's "Who Are You" - in a climate of fear and confusion.

How much fear and confusion? "American Idol" judge Simon Cowell propped his head against his middle finger on Tuesday's show. He had to issue a statement the next day that he did not intend an "inappropriate gesture."

Or, presumably, an **indecent** one. That could be a fine situation. Literally.

To reach this Plain Dealer columnist:

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From clevescene.com
Originally published by *Cleveland Scene* Apr 07, 2004
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The $500K #!*@%

The FCC's latest mission: Dumbing-down our airwaves.

BY JASON BRACELIN

Craig Callander's business card pretty much says it all. "*669*: Helping You Hurt Yourself" it reads, an apt encapsulation of his on-air antagonism. As the anti-everything radio personality **Sweet Ass Sassafrass**, Callander is among the funniest and fiercest on Cleveland airwaves. *669*, his twice-weekly show on WCSB-FM 88.3, is a mix of scabrous punk rock and humor as abrasive as steel wool. It's Callander's playground, where he violates listeners, airs randy prank calls, and occasionally hosts f-bomb-filled interviews with acts like **Insane Clown Posse**.

A fine mess: Rover (center) and his friends just got a little less Xtreme.

Well, not anymore. In the wake of Janet Jackson's **Nipplegate**, the **FCC** has come down hard on stations that air off-color humor or the occasional curse word, which had been permissible in the past.

How bad has it gotten? Even the Butt Trumpet's been silenced.

"Butt Trumpet has a song, 'Fucking Asshole,' that used to be a big request. I won't play that now because I'm kind of nervous about it," says Callander, whose show airs at 5 p.m. Thursdays and 1 a.m. Saturdays. "It's a nasty song, but it's something that I've played for 10 years. Now, in this climate, I won't even consider it, because I don't want to get busted on some stupid technicality. It's so weird how, after all the freedoms that I've enjoyed for so long, I'm nervous about a lot of stuff now."

Rover, an equally pugnacious personality at 92.3 Xtreme, also feels the duct tape on his mouth. The host of *Rover's Morning Glory* (weekdays 5:30 to 10 a.m.), he's had to tone down his show's mix of bawdy comedy and modern rock.

"One of the segments the lawyers made us ax was a daily feature called '**Dear Porn Star**,' where porn star Carmen Luvana would answer listeners' love, sex, and relationship questions," Rover says. "In fact, they said the mere title 'Dear Porn Star' had to go, no matter what the content of the feature was. If she was to give lawn and garden advice or talk about politics, we still couldn't call it 'Dear Porn Star.' Twelve-year-old girls are wearing T-shirts emblazoned with the words 'Porn Star' across their chests, but I can't say the term on the air."

The FCC's regulatory powers were amplified last month, when the commission reversed its decision on an indecency ruling from October 2003. That ruling followed U2 frontman **Bono**'s nationally broadcast speech at the Golden Globes, in which he uttered, "This is really, really fucking brilliant." At the time, the FCC said the curse was permissible because it was fleeting and didn't describe sexual or excretory functions -- long the standard for forbidden words.

By March, the excretory functions had hit the fan. After an appeal filed by the Parents Television Council, the FCC did an about-face, ruling that Bono's words were in fact indecent and broadening the definition of "profane" speech to include just about all swear words or racy commentary, regardless of context. A new "Indecency Bill" before the Senate would greatly amplify fines: First offenses, currently $27,500, would jump to $275,000; by

your third slipup, the tab hits $500,000. After that, stations' broadcasts licenses may be revoked. Even DJs can be fired.

That's why, after decades of spinning classic rock, WNCX Program Director **Bill Louis** had to slash his playlist, removing songs by the Who ("Who Are You"), Warren Zevon ("Lawyers, Guns and Money"), and the Steve Miller Band ("Jet Airliner") because they contain mild profanity. He'd been spinning Pink Floyd's "Money" for 17 years without a single complaint, but its use of "bullshit" forced Louis to shelve it. "This puts everybody on red alert for anything that could create a fine in that area," he says.

Stations like WCSB, whose annual budget is well under $50,000, could easily be put out of business by a single violation.

"You're not going to take any chances," Callander says. "I wouldn't even care if I got a fine, but I don't want to be the person who gets the station in trouble just for taking a stand. It seems like the FCC wants to baby-proof and Nerf everything and make it so safe that no one could possibly be offended. You never know what they're going to go after. You could be next."

REUTERS

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Indecency uproar taming US network TV

Mon Apr 12, 2004 05:07 PM ET

By Michele Gershberg

NEW YORK, April 12 (Reuters) - Whether you believe it is a new sexual McCarthyism, or you see it as a long-awaited campaign against programming that's crossed the line into indecency, U.S. television is about to get toned down a notch.

Broadcasters may stage a retreat from edgy shows over the next few seasons as a regulatory campaign to clean up the airwaves gains surprising strength from election-year politics, media analysts said on Monday.

In a sign of what's to come, even underwear vendors are rethinking how they use sex to sell. Television network CBS confirmed on Monday that the much-hyped Victoria's Secret lingerie fashion show, an annual special, would not air this year.

Shari Anne Brill, director of programming at media buyer Carat USA, said racy programs have not lost their popularity, but networks are becoming more wary of being labeled indecent.

"There will be stricter self-regulatory guidelines because it seems that in this climate, everyone is afraid to cross the line," Brill said.

Provocative programs known to win ratings might receive a partial scrubbing to tone down storylines. Networks may be quicker to scrap weaker shows famed mainly for their shock value and scrutinize new scripts far more closely.

"This new hypersensitivity of the past year or so is changing the content of broadcasting," said Robert Thompson, professor of media and popular culture at Syracuse University. "Right now everybody is looking to take the heat off, turn the public attention down a few notches for a season or two."

Analysts said Victoria's Secret owner Limited Brands (LTD.N: Quote, Profile, Research) appeared keen to avoid negative publicity as Washington boosts indecency fines, especially since its last runway show drew lukewarm ratings and failed to push up sales.

Industry insiders largely declined to comment on the pressure an anti-indecency campaign could exert on their new program strategies.

But media watchers said the chilling effect of a Federal Communications Commission crackdown -

- which radio shock jock Howard Stern has likened to a "McCarthy-type witch hunt" -- is already creeping into programming plans.

It is a shift from the past five or six years, when broadcasters have sought to emulate daring and popular shows on cable television -- including HBO's Mafia crime series "The Sopranos" and sexual misadventure story "Sex and the City."

"They're going with a very homogenized, much more family-centric route, moving completely away from the edgy type of content," said media industry commentator Jack Myers. "The ability to take risks and break down established taboos is at an end for now."

Broadcast networks and the media conglomerates that own them -- including Viacom (VIAb.N: Quote, Profile, Research) , Walt Disney Co. (DIS.N: Quote, Profile, Research) and News Corp. (NCP.AX: Quote, Profile, Research) , are loath to fight for foul language during a U.S. election year, especially as they seek regulatory concessions on other issues, including ownership laws, analysts said.

Public outrage against televised nudity and foul language mushroomed after singer Janet Jackson's breast was exposed during the Super Bowl telecast in February, adding fuel for raising FCC fines on indecent material.

Some advertisers turned skittish even earlier as protests over perceived indecency gained ground ahead of the 2004 vote.

Youth retailer Abercrombie & Fitch (ANF.N: Quote, Profile, Research) pulled a catalog featuring scantily clad and naked models off store shelves, while automaker Chrysler cut a sponsorship of the "Lingerie Bowl" -- a televised game of tackle football between models in bras and panties.

Last week, broadcasters got a stronger taste of their vulnerability when the FCC proposed a $495,000 fine against Clear Channel Communications (CCU.N: Quote, Profile, Research) for comments by Howard Stern. Clear Channel had already dropped Stern. (Additional reporting by Jean Scheidnes)

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ACROSS DIAL, TONE-DOWN 'Indecency' flap has radio stations edgy:[SPORTS FINAL Edition]

DAVID HINCKLEY DAILY NEWS STAFF WRITER. **New York Daily News**. New York, N.Y.: Apr 1, 2004. pg. 91

Full Text (735 words)

opyright Daily News, L.P. Apr 1, 2004

After Patty Steele of WPLJ read a Daily News gossip tease Tuesday morning about a "Sopranos" star possibly being "outed," she joked that co-hosts Scott Shannon and Todd Pettengill were "in the corner whispering."

"You can't whisper about something like that on the air anymore," Pettengill shot back. "Or you'll have the whole FCC raining down on you."

The national frenzy about media indecency - launched when Janet Jackson's breast was exposed during the Feb. 1 Super Bowl half-time show - has cast a cloud on radio shows far beyond its most prominent target, Howard Stern of WXRK.

Consider this: - At one time, the Star and Buc Wild morning show on WQHT let the f- and s-words regularly slip onto the air and spoke about sex in terms like "twist the b-out."

The current show, under DJ Sway, has none of that.

"We have to be careful what we say, what we do, everything," said show member Miss Info. "We can't have a sex therapist in he studio to do a demonstration."

- Virtually all call-ins are now tape-delayed, to avoid the Ryan Seacrest problem. On his first day at KIIS in Los Angeles in February, he had two live callers say the f-word. So great is the demand for radio tape-delay equipment that manufacturers are back- ordered for at least a month.

- Hip-hop stations WQHT (97.1 FM) and WWPR (105.1 FM) have become more vigilant about editing words out of rap songs.

"The record companies send edited versions," said Andy Rosen, regional vice president for WWPR parent Clear Channel. "Then we listen and if necessary do our own further edit."

- Even callers to sports-talk radio are affected. "We prefer not to have someone on the air saying, 'The Mets suck,'" said Tim McCarthy, general manager of WEPN (1050 AM). "It isn't a big problem, but we want to err on the side of caution."

- Stern, of course, has been telling listeners daily that parts of his riffs with strippers and other staples of his show are being killed. "It's making it less funny," he said. "It's not my show anymore."

McCarthy, Rosen and others stress that despite the fury of the current flap, most shows and hosts are not "at risk."

In addition, New York stations aren't as draconian as other stations around the country that have refused ads for "Puppetry of he Penis" and edited four-letter words out of rock warhorses like Pink Floyd's "Money" and Steve Miller's "Jet Airliner."

or is anyone in New York picking up the new ultra-clean syndicated shows from John Tesh and Marie Osmond.

However, the potential for increased FCC fines - with the potential for individuals being hit, too - for indecent material that gets on the airwaves has everyone thinking twice.

"What's going on is still very scary," said Tracy Cloherty, vice president of WQHT's parent, Emmis Broadcasting. "We're under all this pressure not to be 'indecent,' but the FCC won't tell us what 'indecency' is. It's an unbelievable position. I've never seen anything like it."

"You double-check everything you're going to say," said Freddie Colon, long-time New York deejay who's now in Arizona. "I wouldn't tell a joke now that might have any racial overtone. I'll see a funny story in the paper about a naked guy in the paper that I would have used three months ago. Now, I won't."

The concern over this issue was underscored yesterday when the National Association of Broadcasters (NAB) convened an extraordinary "summit" on indecency.

The NAB hopes to formulate an industry-wide response that would defuse current legislation that threatens much higher fines and potential license revocation for indecency violations.

"The curtain has come down fast," said Tom Taylor, editor of the radio trade sheet Inside Radio. "And it affects everyone. Even if you're the safest adult contemporary station, you could be doing a remote from an auto dealership and someone passing by could yell a word and you could conceivably be held liable.

"It's as if someone turned the thermostat down 20 degrees. It's had a very chilling effect."

[Illustration]
Caption: WATCHING THEIR WORDS: Scott Shannon (left) and Todd Pettengill of the "Scott and Todd in the Morning Show" on WPLJ. AP Howard Stern (above) THOMAS MONASTER DAILY NEWS DELAYED REACTION: Two crude callers to Ryan Seacrest's KIIS show have led to tape-delayed call-ins. COREY SIPKIN DAILY NEWS CLEANER AIR: DJ Sway of WQHT

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DJ FIRED FOR RACE REMARK:[SPORTS FINAL Edition]

DAVID HINCKLEY DAILY NEWS STAFF WRITER. **New York Daily News**. New York, N.Y.: Mar 23, 2004. pg. 74

Full Text (316 words)

opyright Daily News, L.P. Mar 23, 2004

Weekend jock Raqiyah Mays was fired yesterday by WWPR (105.1 FM) after criticizing interracial dating during her weekend show.

ower-105 officials said in a statement that the station "decided to release her based upon inappropriate remarks she made to listeners during her broadcast on Saturday.

"The station received many E-mails, phone calls and messages from listeners who were displeased and felt alienated as a result of her actions."

Mays' comments on interracial dating came while she was running a station contest in which listeners could win tickets to an sher concert by making a confession. "Confession" is the title of Usher's latest record, which has sparked heavy buzz in radio.

"I made a confession of my own," Mays said yesterday. "I said I was concerned about interracial relationships when the African-American community has our own inner work and healing to do. If I see a white woman dating an African-American man, I feel, as do many African-American women, that there is one less black man available to us."

The host of a 10 a.m. to 2 p.m. shift on Saturdays, Mays said she was shocked by getting the boot from the Clear Channel station.

he claimed she was the victim of a "climate of pins and needles" stemming from the firestorm over indecency following the Janet Jackson and Howard Stern controversies.

"I wasn't speaking against anybody," Mays said. "I was just being honest. Unfortunately, the industry is under FCC scrutiny and he climate is ripe for reactionary measures."

"I am being censored not for sexual indecency, but racial indecency."

A hip-hop writer who is executive editor of The Ave magazine, Mays came to WWPR a little over a year ago from Sirius atellite Radio.

WWPR said no one was ticketed to replace Mays on Saturdays, but it could turn out to be Egypt, who recently left WBLS and as done some weekend shifts at Power.

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THE TV COLUMN

Lisa de Moraes

Even Buttoned-Down PBS Gets Caught in the Wringer

Viacom CEO Sumner Redstone confided to investors this week that "a woman's breast is not such a big deal" to him. We wish him a speedy recovery.

Ironic, isn't it, that thanks to Mr. Redstone's MTV and CBS, which produced and aired, respectively, the little Super Bowl halftime number that's come to be known as the Breast Heard Round the World, TV execs all over the country have been engaged in vigorous debate about that part of the female anatomy which no longer holds any interest for the 80-year-old Mr. Redstone.

Take PBS station WGBH, for example, where suits went back and forth about how much cleavage to show in its upcoming "American Experience" documentary "Emma Goldman."

You cannot expect to make a documentary about a colorful 20th-century anarchist and advocate of free speech and free love—a woman J. Edgar Hoover once called one of the most dangerous people in America—without including a little anarchy, a little free speech and a little free love in the piece.

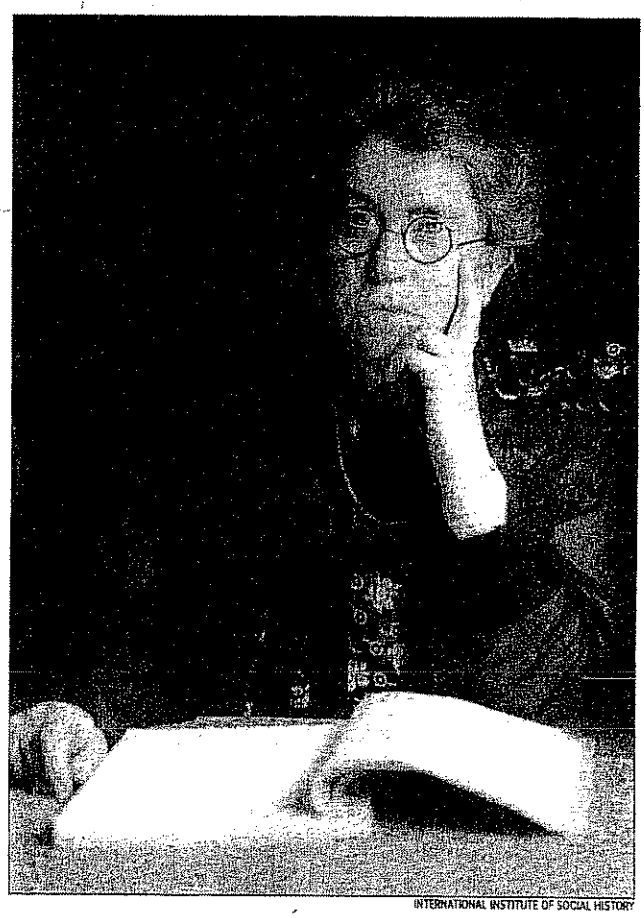
In calmer times, this would not be a problem.

But since Justin Timberlake unleashed Janet Jackson's right breast during the Super Bowl halftime show and it began its scorched-earth march through the TV industry, it's a big problem.

So the executive producer of "American Experience" agreed to cut a couple of seconds of a scene re-creation in the documentary, in which Goldman's lover is seen unbuttoning the front of her chemise, revealing about as much cleavage as Susan Sarandon showed off in that black number she wore to this year's Academy Awards.

According to "American Experience" executive producer Mark Samels, during the normal finishing process this documentary, like all "American Experience" documentaries, went to an attorney at WGBH for what's called "errors and omissions" analysis. While screening the project, Samels reports, the attorney raised concerns about the love scene.

Here is where Samels's version of what happened differs from that of the public TV source who was among those who brought this to the attention of The TV Column.



INTERNATIONAL INSTITUTE OF SOCIAL HISTORY

A documentary about activist Emma Goldman included a scene regarded by a PBS station's lawyer as too revealing.

Viacom CEO Sumner Redstone told investors that a woman's breast "is not such a big deal."

According to our source, the showing of cleavage was what knotted the attorney's knickers; he thought it would be objectionable to the Federal Communications Commission, which has been on a sort of shock-and-awe campaign against TV smut—at least the broadcast stuff—since its chief wandered in on the halftime show while watching the Super Bowl with his family.

According to Samels, it wasn't the cleavage that had the attorney grinding his teeth; it was the question of nipplage.

Mel Buckland, who wrote, produced and directed the documentary, declined to comment for this article, nervously telling The TV Column that she had been expressly told by folks at "American Experience" not to discuss the situation and explaining that she was afraid of the career consequences if she did talk to the press. (Just to refresh your memory: This is still about a documentary on the life of a woman who lobbied in this country, back in the early 1900s, for freedom of—among other things—speech.)

Samels says the "American Experience" team assured the WGBH attorney that there was no nipplage in the scene.

According to Samels, the attorney passed along the documentary to an outside attorney who does work for WGBH on communications issues, for a second opinion.

"That person also agreed that it looked like a full breast was exposed, which was a pretty common-sense line of decency we haven't crossed," Samels explained.

However, a spokeswoman for "American Experience" with whom we spoke yesterday afternoon said the outside attorney did not screen the documentary; rather, the in-house attorney had described the scene in question and the outside attorney advised that "he didn't perceive any legal issues with it."

Back to Samels, who tells The TV Column that the "American Experience" people "went back and did a frame-by-frame analysis, because we had only looked at it 50 times while making it.

"I didn't see a fully exposed breast, and sure enough, there isn't," he said.

"What there is is a shadow of a blouse which gives the *appearance* of the revealing of a nipple, the full breast."

That, he says, is why they agreed to remove what he calls 51 frames and our source says is about two seconds of the love scene.

Samels insists, however, that even after the nip and tuck, there is "enough cleavage to drive a truck through in this scene."

We will pause here for a minute while you try to get that image out of your head.

Our public TV source and Samels do agree that it's pretty ironic that a documentary about a woman who preached free love and free speech should be mired in a discussion about whether it's okay to show a breast on TV.

"What I love about it is that it shows the country has never gotten away from its Puritanical roots," Samels said. "Which once again calls for exploration of American history. You can only understand who we are by knowing how we got this way."

That, of course, is a shameless plug for "American Experience," which bills itself as television's longest-running history series.

Oh well, that's showbiz.

For Immediate Release 4-6-04

Contact:

Jonathan Robinson, Producer (203) 777-1690 whenindoubtproductions@yahoo.com

Program website: http//www.pbs.org/everychildisbornapoet

PBS EDITS "OFFENSIVE" CONTENT FROM INDEPENDENTLY-PRODUCED DOCUMENTARY EVERY CHILD IS BORN A POET: THE LIFE & WORK OF PIRI THOMAS IN ORDER TO COMPLY WITH NEW FCC INDECENCY RULES

The FCC has made sweeping changes in the past few weeks regarding the use of language on television with the "Decency Enforcement Act of 2004." There has been a rapid transformation in policy in the wake of Bono saying "fuck" on the Golden Globes and Janet Jackson exposing her nipple during the Super Bowl. In short, language that used to be at the discretion of the broadcaster (i.e. station or network) is now at the discretion of the FCC. The FCC is now leveling fines of up to $250,000 against stations that do not comply with the new regulations approved by Congress.

The independently-produced film EVERY CHILD IS BORN A POET: THE LIFE & WORK OF PIRI THOMAS, scheduled to be broadcast on the national PBS series INDEPENDENT LENS tonight, April 6th at 10:00 p.m., is right smack in the middle of these new controversial policies. EVERY CHILD IS BORN A POET tells the story of renowned poet, writer, educator Piri Thomas. The film includes the author reading excerpts from, as well as dramatizations of selections from his classic autobiographical novel Down These Mean Street (Random House,1967). The book chronicles Thomas' coming-of-age in the 1930's, 1940's and 50's, his experiences as a teen gang member in East Harlem, as a junkie and an armed robber, and the six years he spent in prison, before becoming an educator and activist, pioneering gang violence prevention, drug rehabilitation, and educational reform efforts in New York City in the 1960's and 70's.

Following the issuance of the new FCC rules, PBS has decided it must edit out of EVERY CHILD IS BORN A POET "obscene" words like "fuck" and "shit." In fact, some PBS affiliate stations are requesting that additional words such as "piss," "nigger" and "spic," not mandated by the FCC rules, be removed as well. Nebraska Public Television has decided to pull the show completely. All the language in question is from Thomas' literary texts, not from interviews or other extemporaneous material.

It seems that history repeats itself, yet again. At the time of its publication, Down These Mean Streets was hailed for its unflinching description of ghetto life and racism in America, while decried by some as being obscene. Down These Mean Street was banned in a number of schools and libraries in the early 1970's, due to concerns about its language. The "offensive" language currently being censored by the government brings into question how the FCC rules effect not only freedom of speech, but artistic

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integrity, as well. In 1972, before the decision was overturned, the Supreme Court upheld a lower court's ruling to allow School District 25 in Flushing, Queens to ban Down These Mean Street from student libraries. In a dissenting opinion, Justice Potter Stewart and Justice William O. Douglas asked, "Are we sending children to school to be educated by the norms of the school board or are we educating our youth to shed the prejudices of the past, to explore all forms of thought, and to find solutions to our world's problems?"

The new FCC rules effect content involving "offensive" language and sexuality, but do not touch upon violence. Before the new regulations went into effect, the FCC went as far as to try to mandate that broadcasters pixilate the mouths of individuals speaking offensive words, but backed off before Congress gave its approval. Major networks and cable programmers may be willing to test or openly flaunt the new rules, but PBS stations, already struggling with limited resources and annual budget re-authorization hearings in Congress, are unwilling to take on the challenges to freedom of speech and expression.

The series INDEPENDENT LENS is a co-production of The Independent Television Service (ITVS) and PBS. The Mission Statement for ITVS is as follows:

The Independent Television Service (ITVS) brings to local, national and international audiences high-quality, content-rich programs created by a diverse body of independent producers. ITVS programs take creative risks, explore complex issues, and express points of view seldom seen on commercial or public television. ITVS programming reflects voices and visions of underrepresented communities and addresses the needs of underserved audiences, particularly minorities and children.

In an era that encompasses both the explosion of commercial information enterprises and a consolidation of media empires, the role of public sector media becomes critical to a free, open, and informed society. ITVS holds the following values as essential to carrying out the organization's work:

- Freedom of expression is a human right.
- A free press and public access to information are foundations of democracy.
- An open society allows unpopular and minority views to be publicly aired.
- A civilized society seeks economic and social justice.
- A just society seeks participation from those without power, prominence, or wealth.
- A free nation allows all citizens forums in which they can tell their own stories and express their own opinions.

www.itvs.org

About When In Doubt Productions, Inc.

When In Doubt Productions, Inc. is dedicated to producing films about social issues and the way in which these issues are reflected and explored in arts and letters. More information about When In Doubt Productions, Inc. is available at www.everychildis bornapoet.org.

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Listening again

Jefferson Pilot-owned KS107.5's format by nature is more risqué and cutting-edge than most other stations. Hot new hits by Ludacris, Eamon and Frankee are not only filled with expletives (edited out for airplay) but extreme sexual content as well.

"I've always been well aware of the sexual content of the music," Collins says. "I don't believe KQKS has ever been indecent since I've been here in 1998."

The station receives

edited, cleaned- up versions of hip- hop songs from the record companies, but Collins and music director John Kage go through each one again to make sure nothing slips by. They'll actually re-edit the songs if they feel the company didn't do a good enough job clipping out obscenities.

Despite the explicit sexual content of some rap songs, the FCC doesn't pursue those complaints as aggressively as those about talk radio. As a song, rap lyrics have more First Amendment protection than talk. In 2000, the FCC went after Pueblo radio station KKMG-FM in a landmark case after the station had played an Eminem song, *The Real Slim Shady*. A $7,000 fine was eventually assessed, but in 2002, the FCC reversed itself, declaring the song not obscene after all.

"I haven't taken any music off the air. I have gone back and listened to every song we play to see if we should do additional edits," Collins says. "We have done some editing. Now that there's more scrutiny on us, I have completely eliminated (any obscenities) in the music."

They have kept songs off the air that they just didn't feel right about. Last year's track *Purple Stuff* by Big Moe "was actually about drinking cough syrup at parties and getting high on that. I remember telling my music director 'We're not playing this.' To me, it was offensive," Collins says.

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