

Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554

In the Matter of :  
:   
COMPLAINTS AGAINST VARIOUS : File No. EB-03-IH-0110  
BROADCASTING LICENSEES :  
REGARDING THEIR AIRING OF :  
THE "GOLDEN GLOBE AWARDS" :  
PROGRAM :

To: The Commission

OPPOSITION BY PARENTS TELEVISION  
COUNCIL TO PETITION FOR RECONSIDERATION

In accordance with 47 C.F.R. § 1.106(g), Parents Television Council, by counsel, hereby files this Opposition to NBC's Petition for Partial Reconsideration and the Petition for Reconsideration filed by the ACLU, et al.

In its March 18, 2004 Order in *Golden Globe Awards*, the Commission made clear that when it came to policing indecency on the airwaves, the old way of doing things had not worked. Based on the Commission's past rulings on broadcast indecency, radio and television broadcasters had come to believe they could safely broadcast whatever they wanted over the public airwaves, no matter who might see or hear it, no matter what time of day, and no matter how offensive it might be to those subjected to it. No more.

The Commission has rightly recognized that the Supreme Court's reference to "context" in its *Pacifica* decision is not a shield against any effective regulation of what broadcasters choose to put on the air, although that is the way the broadcasters have used it up to now. Petitioners claim they are shocked that a statute that has been on the books for decades is now to be read and enforced in a common sense manner. No longer will they be permitted to broadcast the F-word in prime time so long as it is used merely as what NBC has called "an intensifier." The Commission has announced a bright line rule that is easy to follow: do not use the F-word, in any form, intensifier or not.

From that simple premise petitioners have spun a litany of horrors that they claim threatens to make live broadcasts a thing of the past and has even curtailed the playing of Golden Oldies on the radio.<sup>1</sup> Petitioners are overreacting, and they know it. The Commission's ruling was not as broad as petitioners pretend it to be. For example, the Commission did not extend the new rule to

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<sup>1</sup> NBC's complaint about the Commission's suggestion - and it was only that - that broadcasters could avoid indecency problems by using delay technology is too rich to ignore. *NBC Petition* at 5. For years, the broadcasters and their defenders have smugly advised their critics to use v-chips or just change the channel if they did not like what was being broadcast. Now that the Commission has merely suggested that broadcasters consider using a little technology of their own, they are indignant.

every conceivable type of broadcast. Thus, there should be no concern that, for example, an expletive heard on a live news broadcast uttered by a fevered participant in the heat of the moment will lead to a fine or license revocation. The Commission was careful to limit the rule to "situations such as this." *Order* ¶ 8.

"This" was a live awards program broadcast by NBC stations, before 10 p.m. in some cases. NBC should not have been surprised about what happened. It was on fair notice that those who appeared on the Golden Globe Award show might utter the F-word, among others. After all, Cher had done just that the year before on a similar show. NBC clearly recognized the risk, for it warned participants that proper decorum was expected of them during the Golden Globe broadcast.

In order to discourage an overwrought reading of the reach of its Order, the Commission highlighted in the Conclusion to its Order that broadcasters who ran afoul of the new rule risked potential enforcement actions "in situations such as that here." *Id.* ¶ 17. There is therefore no cause for NBC and others to fret that the

Order is ambiguous about whether it applies, for example, to news programming.<sup>2</sup>

It is alarming enough that petitioners say they want the Commission to reverse itself in this case and to provide other associated relief related to the Order at issue. But that is not really what this case is about. For the broadcasters, this case is the opening salvo in a campaign aimed at stripping away any limits on what they can broadcast. They believe that they should not have to labor under the constraints of 18 U.S.C. § 1464.

There can be no doubt about that. NBC, for example, refers to "the broad availability of television programming not subject to Section 1464" as a reason for the Commission to back off its Order. *NBC Petition* at 2. The ACLU petitioners claim that the rise of cable television and the Internet have undone the vitality of the holding of *Pacifica*, suggesting that the Commission's power to regulate broadcasting has been overtaken by events. For the ACLU petitioners, the state of the law even *before* the Order issued in this case was evidently too much. *ACLU Petition* at 7-8 n. 14. Simply put, the broadcasters want to broadcast over the public airwaves the same kind of fare

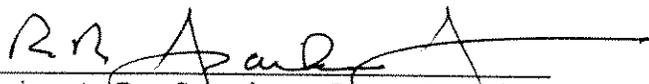
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<sup>2</sup> In another example of studied confusion, Petitioners ACLU, *et al.* at one point even pretend that they do not understand just what "F-word" the Commission has in mind in its Order. *ACLU Petition* at 10-11.

that now appears on cable. For them, a return to the status quo ante is not enough. They want to be unshackled altogether from 18 U.S.C. § 1464.

If the broadcasters and others really believe that the Commission's right to regulate broadcast indecency has been undercut by the advance of other media, then they should tell it to Congress. If they want to argue for a constitutional right to broadcast the F-word into millions of homes in prime time, they should do so before a court. The Commission, though, should not reverse its March 18 Order. The Commission is on the right side of this issue, and it should stay there.

Parents Television Council  
By Counsel

  
Robert R. Sparks, Jr., Esquire  
Christopher T. Craig, Esquire  
Herge, Sparks & Christopher, LLP  
6862 Elm Street, Suite 360  
McLean, Virginia 22101  
(703) 848-4700; (703) 893-7371

**Counsel for Parents Television Council**

**CERTIFICATE OF SERVICE**

The undersigned certifies that on this 28th day of April 2004, the foregoing pleading was sent via first-class U.S. mail to the attached list of broadcasters and to:

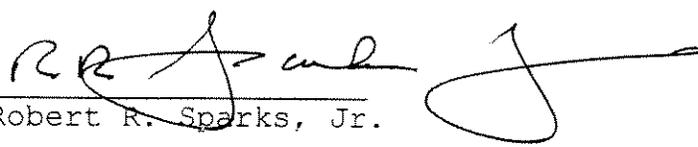
F. William LeBeau, Esquire  
National Broadcasting Co,  
Inc.  
1299 Pennsylvania Avenue,  
N.W.  
11<sup>TH</sup> Floor West  
Washington, D.C. 20004  
**Counsel for NBC**

Margaret L. Tobey, Esquire  
Morrison & Foerster, LLP  
2000 Pennsylvania Avenue,  
N.W.  
Suite 5500  
Washington, D.C. 20006  
**Counsel for NBC**

Marlene H. Dortch  
Secretary  
Federal Communications Commission  
TW-A325  
445 12<sup>th</sup> Street, S.W.  
Washington, D.C. 20554

Robert Corn-Revere, Esquire  
Ronald G. London, Esquire  
Davis Wright Tremaine  
L.L.P.  
1500 K Street, N.W.  
Suite 450  
Washington, D.C. 20005  
**Counsel for ACLU, et al.**

David Tillotson, Esquire  
Office of David Tillotson  
4606 Charleston Terrace  
N.W.  
Washington, D.C. 20007-  
1911  
**Counsel for Petitioners**

  
Robert R. Sparks, Jr.

KALB-TV  
MEDIA GENERAL  
COMMUNICATIONS, INC.  
333 EAST FRANKLIN STREET  
RICHMOND, VA 23219

KARE  
MULTIMEDIA HOLDINGS  
CORPORATION  
7950 JONES BRANCH DRIVE  
MCLEAN, VA 22107

KARK-TV  
KARK-TV  
909 LAKE CAROLYN PRKWY  
#1450  
IRVING, TX 75039

KATV  
KATV, LLC  
P.O. BOX 77  
LITTLE ROCK, AR 72203

KBTV-TV  
NEXSTAR BROADCASTING OF  
BEAUMONT/PORT ARTHUR, LLC  
909 LAKE CAROLYN PRKWY,  
#1450  
IRVING, TX 75039

KCBD  
LIBCO, INC.  
639 ISBELL ROAD #390  
RENO, NV 89509

KCEN-TV  
CHANNEL 6, INC.  
P.O. BOX 6103, 17 SOUTH THIRD  
STREET  
TEMPLE, TX 76503

KCNC-TV  
CBS TELEVISION STATIONS INC.  
2000 K STREET, N.W. #725  
WASHINGTON, D.C. 20006

KCRA-TV  
KCRA HEARST-ARGYLE  
TELEVISION, INC.  
888 SEVENTH AVENUE  
NEW YORK, NY 10106

KETK-TV  
KETK LICENSEE L.P., SHAW  
PITTMAN (K. R. SCHMELTZER)  
2300 N STREET, N.W.  
WASHINGTON, D.C. 20037

KFDM-TV  
FREEDOM BROADCASTING OF  
TEXAS, INC.  
P.O. BOX 7128  
BEAUMONT, TX 77706

KFOR-TV  
NEW YORK TIMES  
MANAGEMENT SERVICES,  
CORP. CNTR 1  
2202 N.W. SHORE BLVD. #370  
TAMPA, FL 33607

KGW  
KING BROADCASTING  
COMPANY  
400 SOUTH RECORD STREET  
DALLAS, TX 75202

KHAS-TV  
GREATER NEBRASKA  
TELEVISION, INC.  
6475 OSBORNE DRIVE WEST  
HASTINGS, NE 69801

KING-TV  
KING BROADCASTING  
COMPANY  
400 SOUTH RECORD STREET  
DALLAS, TX 75202

KKCO  
EAGLE III BROADCASTING, LLC  
2325 INTERSTATE AVE  
GRAND JUNCTION, CO 81505

KNBC  
NBC SUBSIDIARY (KNBC-TV),  
INC., MS DIANE ZIPURSKY  
1299 PENNSYLVANIA AVE  
WASHINGTON, D.C. 20004

KNSD  
STATION VENTURE  
OPERATIONS, LP, C/O NBC, INC.  
11TH FLR.  
1299 PENNSYLVANIA AVE, N.W.  
WASHINGTON, D.C. 20004

KOAA-TV  
SANGRE DE CRISTO  
COMMUNICATIONS, INC.  
2200 SEVENTH AVENUE  
PUEBLO, CO 81003

KOB-TV  
KOB-TV, LLC  
3415 UNIVERSITY AVENUE,  
ATTN: L. WEFRING  
ST. PAUL, MN 55114

KPNX  
MULTIMEDIA HOLDINGS  
CORPORATION  
7950 JONES BRANCH DRIVE  
MCLEAN, VA 22107

KPRC-TV  
POST-NEWSWEEK STATIONS,  
HOUSTON, LP  
8181 SOUTHWEST FREEWAY  
HOUSTON, TX 77074

KRBC-TV  
MISSION BROADCASTING, INC.  
544 RED ROCK DRIVE  
WADSWORTH, OH 44281

KRIS-TV  
KVOA COMMUNICATIONS, INC.  
409 SOUTH STAPLES STREET  
CORPUS CHRISTI, TX 78401

KTGF  
MMM LICENSE LLC  
900 LASKIN ROAD  
VIRGINIA BEACH, VA 23451

KSDK  
MULTIMEDIA KSDK, INC., C/O  
GANNETT CO., INC.  
7950 JONES BRANCH DRIVE  
MCLEAN, VA 22107

KSHB-TV  
SCRIPPS HOWARD  
BROADCASTING COMPANY  
312 WALNUT STREET  
CINCINNATI OH 45202

KSNF  
NEXSTAR BROADCASTING OF  
JOPLIN, LLC  
909 LAKE CAROLYN PRKWY  
#1450  
IRVING, TX 75039

KTEN  
CHANNEL 49 ACQUISITION  
CORPORATION  
P.O. BOX 549  
HAMPTON, VA 23669

KTIV  
KTIV TELEVISION, INC.  
3135 FLOYD BOULEVARD  
SIOUX CITY, IA 51105

KUSA-TV  
MULTIMEDIA HOLDINGS  
CORPORATION, C/O GANNETT  
CO.  
7950 JONES BRANCH DRIVE  
MCLEAN, VA 22107

KWES-TV  
MIDESSA TELEVISION  
COMPANY  
P.O. BOX 60150  
MIDLAND, TX 79711

KWWL  
RAYCOM AMERICA, INC., RSA  
TOWER, 20TH FLOOR  
201 MONROE STREET  
MONTGOMERY, AL 36104

KXAS-TV  
STATION VENTURE  
OPERATIONS, LP, C/O NBC,  
INC., 11TH FL.  
1299 PENNSYLVANIA AVE., N.W.  
WASHINGTON, D.C. 20004

KYTV  
KY3, INC.  
999 WEST SUNSHINE STREET  
SPRINGFIELD, MO 65807

WANE-TV  
INDIANA BROADCASTING, LLC  
4 RICHMOND SQUARE  
PROVIDENCE, RI 2906

WAVE  
LIBCO, INC.  
639 ISBELL ROAD # 390  
RENO NV 89509

WBBH-TV  
WATERMAN BROADCASTING  
CORP. OF FLORIDA  
3719 CENTRAL AVENUE  
FORT MYERS FL 33901

WBOY-TV  
WEST VIRGINIA MEDIA  
HOLDINGS, LLC  
P.O. BOX 11848  
CHARLESTON, WV 25339

WBRE-TV  
NEXSTAR BROADCASTING OF  
NORTHEASTERN  
PENNSYLVANIA, LLC  
909 LAKE CAROLYN  
PRKWY, #1450  
IRVING, TX 75039

WCAU  
NBC SUBSIDIARY (WCAU-TV),  
MONUMENT ROAD  
LA CYNWYD, PA 19004

WCNC-TV  
WCNC-TV, INC.  
400 SOUTH RECORD STREET  
DALLAS, TX 75202

WCSH  
PACIFIC AND SOUTHERN  
CO., INC., C/O GANNETT CO.  
7950 JONES BRANCH DRIVE  
MCLEAN, VA 22107

WYB-TV  
PALACHIAN  
BROADCASTING CORP.  
11 LEE STREET  
RISTOL, VA 24201

WTVR-TV  
POST-NEWSWEEK  
STATIONS, MICHIGAN, INC.  
550 WEST LAFAYETTE BLVD.  
DETROIT, MI 48226

WISN-TV  
NEW ORLEANS HEARST-  
ARGYLE TELEVISION, INC.  
888 SEVENTH AVENUE  
NEW YORK, NY 10106

WISN-TV  
ORLANDO HEARST-ARGYLE  
TELEVISION, INC.  
88 SEVENTH AVENUE  
NEW YORK, NY 10106

WISN-TV  
LIBCO, INC.  
639 ISBELL ROAD, #390  
RENO, NV 89509

WISN-TV  
MEDIA GENERAL  
COMMUNICATIONS, INC.  
333 EAST FRANKLIN STREET  
RICHMOND, VA 23219

WISN-TV  
WISN TELEVISION, INC., C/O  
SHAW PITTMAN, LLP  
2300 N. STREET, N.W.  
WASHINGTON, D.C. 20037

WISN-TV  
WGAL HEARST-ARGYLE  
TELEVISION, INC.  
888 SEVENTH AVENUE  
NEW YORK, NY 10106

WISN-TV  
WHDH-TV, GOVERNMENT  
CENTER  
7 BULFINCH PLACE  
BOSTON, MA 2114

WISN-TV  
WHEC-TV, LLC, C/O  
HUBBARD BROADCASTING,  
INC.  
3415 UNIVERSITY AVENUE  
ST. PAUL, MN 55114

WISN-TV  
WHO-TV  
NEW YORK TIMES  
MANAGEMENT SERVICES  
CORPORATE CNTR 1, 2202  
N.W. SHORE BLVD. #370  
TAMPA, FL 33607

WISN-TV  
WILX-TV  
GRAY MIDAMERICA TV  
LICENSEE CORP.  
500 AMERICAN ROAD  
LANSING, MI 48911

WISN-TV  
WJAR  
OUTLET BROADCASTING,  
INC.  
23 KENNEY DRIVE  
CRANSTON, RI 2920

WISN-TV  
WJFW-TV  
NORTHLAND TELEVISION,  
INC.  
P.O. BOX 858  
RHINELANDER, WI 54501

WISN-TV  
WKYC-TV, INC.,  
C/O GANNETT CO., 7950  
JONES BRANCH DR.  
MCLEAN, VA 22107

WISN-TV  
WLWT  
OHIO/OKLAHOMA HEARST-  
ARGYLE TV, INC.  
P.O. BOX 1800  
RALEIGH, NC 27602

WISN-TV  
WMAQ-TV  
NBC SUBSIDIARY (WMAQ-  
TV), INC.  
1299 PENNSYLVANIA  
AVENUE  
WASHINGTON, D.C. 20004

MC-TV  
COM AMERICA, INC., RSA  
OWER, 20TH FLOOR  
1 MONROE STREET  
ONTGOMERY AL 36104

WMFE-TV  
COMMUNITY  
COMMUNICATIONS, INC.  
11510 E. COLONIAL DRIVE  
ORLANDO, FL 32817

WMGT  
ENDURANCE BROADCASTING,  
LLC, C/O DAN SMITH  
104 NORTH MAIN STREET  
STILLWATER, MN 55082

MTV  
RAY MIDAMERICA TV  
CENSEE CORP.  
15 FORWARD DRIVE  
ADISON, WI 53711

WNBC  
NATIONAL BROADCASTING  
COMPANY, INC.  
30 ROCKFELLER PLAZA  
NEW YORK, NY 10112

WNDU-TV  
MICHIANA TELECASTING CORP.  
P.O. BOX 1616  
SOUTH BEND, IN 46634

NYT  
NYT-TV, LLC, C/O HUBBARD  
ROADCASTING, INC.  
415 UNIVERSITY AVENUE  
T. PAUL, MN 55114

WOOD-TV  
WOOD LICENSE COMPANY, LLC  
120 COLLEGE AVENUE, S.E.  
GRAND RAPIDS, MI 49503

WOWT-TV  
GRAY MIDAMERICA TV  
LICENSEE CORP.  
3501 FARNAM STREET  
OMAHA, NE 68131

VPMI  
LEAR CHANNEL  
ROADCASTING LICENSES, INC.  
625 SOUTH MEMORIAL DRIVE,  
A  
TULSA, OK 74129

WPXI  
WPXI-TV HOLDINGS, INC.  
3993 HOWARD HUGHES  
PRKWY., #250  
LAS VEGAS, NV 89109

WRC-TV  
NBC SUBSIDIARY (WRC-TV),  
INC.  
1299 PENNSYLVANIA AVE, N.W.,  
11TH FL.  
WASHINGTON, D.C. 20004

WRCB-TV  
ARKES TARZIAN, INC.  
205 NORTH COLLEGE AVENUE  
BLOOMINGTON, IN 47402

WRIC-TV  
YOUNG BROADCASTING OF  
RICHMOND, INC.  
301 ARBORETUM PLACE  
RICHMOND, VA 23236

WSAV-TV  
MEDIA GENERAL  
COMMUNICATIONS, INC.  
333 EAST FRANKLIN STREET  
RICHMOND, VA 23219

WSAZ-TV  
EMMIS TELEVISION LICENSE  
CORPORATION  
3500 WEST OLIVE AVENUE, #300  
BURBANK, CA 91505

WSFA  
LIBCO, INC.  
639 ISBEL ROAD, #390  
RENO, NV 89509

WSMV-TV  
MEREDITH CORP., TELEVISION  
STATIONS WSMV-TV  
1716 LOCUST STREET  
DES MOINES, IA 50309

WTHR  
VIDEOINDIANA, INC.  
1000 NORTH MERIDIAN STREET  
INDIANAPOLIS, IN 46204

WTMJ-TV  
JOURNAL BROADCAST  
CORPORATION  
3355 S. VALLEY VIEW  
BOULEVARD  
LAS VEGAS, NV 89102

WTVY  
GRAY MIDAMERICA TV  
LICENSEE CORP.  
P.O. BOX 1089  
DOTHAN, AL 36302

LA  
IGHT BROADCASTING OF  
TON ROUGE LIC.CORP.  
0 ST. JOHN ST., #301  
FAYETTE, LA 70501

WVTM-TV  
BIRMINGHAM BROADCASTING  
(WVTM-TV), LLC, C/O GE  
1299 PENNSYLVANIA AVE, NW  
WASHINGTON, D.C. 20004

WWBT  
JEFFERSON-PILOT  
COMMUNICATIONS CO. OF VA  
P.O. BOX 12  
RICHMOND, VA 23218

WLP  
WLP BROADCASTING, LLC  
RICHMOND SQUARE  
ROVIDENCE, RI 2906

WXIA-TV  
GANNETT GEORGIA, LP, C/O  
GANNETT CO., INC.  
7950 JONES BRANCH DRIVE  
MCLEAN, VA 22107

WYFF  
WYFF HEARST-ARGYLE  
TELEVISION, INC.  
888 SEVENTH AVENUE  
NEW YORK, NY 10106