

## As broadcast decency wanes, feds stand ready to act

By Michael J. Copps

A race to the bottom is never pretty, but it seems especially ugly when it involves broadcasters saying they must push the limits on decency in order to compete against the often-prurient offerings of other channels.

Is cable running liquor ads? Then claim you must do the same in prime time, as NBC did. Need higher ratings for sweeps week? Just roll out a lingerie show, as ABC did in November. Forced to compete against the Super Bowl? Parade Playboy playmates on *Fear Factor*, as NBC just did. Concerned about declining ad revenues at your radio station? Unleash your drive-time shock jock to troll the depths of decadence.

That shock-jock mentality once was restricted to a few late-night talk shows. Now it is commandeering broadcasting's corporate suites, where the question is not whether to tolerate an occasional indecency, but how to push the envelope to fatten shareholder return — notwithstanding the statutory obligation every broadcaster has to serve the public interest.

Congress could enact new laws that protect both our kids and the First Amendment. But those who oppose such new statutes often tie them up in court for years.

The good news is that there are laws on the books now that, if enforced, could reduce the need for far-reaching new ones. These laws, already upheld by the courts, prohibit broadcasting of indecent programming when children are likely to be tuned in.

### Current system ineffective

The Federal Communications Commission, of which I am a member, is supposed to enforce these laws. Unfortunately, we have a dismal record of going after offenders. Our standard operating procedure for radio-indecency complaints is to place the burden on the offended listener to provide tapes or transcripts of allegedly indecent shows. But most of us don't keep tape recorders running as we listen to the radio.

The best approach would be for those using the public spectrum to do what is right in the first place. Rather than pursue the usual Washington route of legislation, regulation and adjudication, let's ask the people who could fix it best to fix it now — voluntarily.

Most radio stations do not keep tapes or transcripts of their programs. Let's ask them to do so voluntarily. If stations kept these tapes for several weeks after broadcast, the commission, upon complaint, could access those records and relieve complaining citizens of an unnecessary burden.

### Adopt voluntary code

Individual companies and station groups are beginning to act. The Walt Disney Co., for example, recently promised to retain tapes of its radio stations' programming for 60 days after broadcast. This isn't the result of legislation or of government regulation. It is enlightened self-regulation — and responsible citizenship.

For years, the broadcast industry practiced responsible citizenship using a voluntary code of conduct. The code clamped effective restrictions on the presentation of sexual material, violence, liquor and drug use, even on excessive advertising. The code also affirmed broadcaster responsibilities toward children, community issues and public affairs.

It didn't always work perfectly, but it was a serious effort based on the idea that we can be well entertained at levels several cuts above the lowest common denominator that now dictates so much programming. Sadly, the code was abandoned by the industry in 1983 after narrow parts of it dealing with ad restrictions were struck down on antitrust grounds.

I call upon our radio, TV and cable chieftains to announce by Easter that they will craft a new code this year. Wouldn't that be spring-time in America for millions of concerned families?

I hear daily from Americans fed up with the patently offensive programming invading their homes. I hear from parents frustrated with the lack of choices available for their children. I even hear from broadcast station owners that something needs to be done.

The industry's power brokers would be well advised to heed these calls now lest continued intransigence reaps them more drastic remedies in the future. The industry can fix the problem voluntarily. If it won't, government may have to halt the race to the bottom.

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