

Kevin J. Martin
Federal Communications Commission
445 12th Street, SW
Washington, DC 20554

Mr. Brent L. Bozell, III
Founder and President
Parents Television Council
325 South Patrick Street
Alexandria, VA 22314

December 5, 2003

Dear Brent,

Thank you for your inquiry regarding the Media Bureau's recent determination that use of the "f-word" during the broadcast of the Golden Globe awards was not a violation of our indecency rule. I share your concern with this decision. I also appreciate your reaching out to the Commissioners to hear our views.

As you know, Congress prohibited the broadcast of obscene, indecent and profane material, and it charged the FCC with implementing this ban. The FCC therefore plays an important role in protecting Americans, particularly children, from indecent programming. I take this responsibility seriously. I am concerned that the Commission is not be doing all it should in this area. We may be interpreting the statute too narrowly. We also may need to enforce our rules more stringently. For instance, I have been advocating counting each indecent utterance in a broadcast program as a separate violation, as the statute on its face appears to call for.¹ Doing so could significantly increase the amount of fines that we could levy.

If we were implementing our statutory mandate effectively, our rules would serve as a significant deterrent to broadcasters considering the airing of obscene, indecent and profane material, and our fines would punish violators sternly. I am concerned that we are failing on both fronts. Just this past quarter, for instance, indecency complaints increased from 351 to 19,920. Clearly, consumers are concerned.

Although I cannot comment on the specifics of this case, given the pending Application for Review, I do intend to review the Media Bureau's decision very

¹ See, e.g., Statement of Commissioner Kevin J. Martin, *Infinity Broadcasting Operations, Inc., Licensee of Station WKRK-FM, Detroit, Michigan*, Notice of Apparent Liability, 18 FCC Rcd 6915 (2003). See also 18 U.S.C. § 1864 ("Whoever utters any obscene, indecent, or profane language by means of radio communication shall be fined under this title or imprisoned not more than two years, or both").

carefully. I am not sure that a word otherwise considered indecent becomes acceptable merely because it is used as an adjective. Our concept of what constituted “indecent” material changed from the “Seven Dirty Words” because the Commission thought that definition was too *narrow*. We took context into account in order to *broaden* what would constitute indecent material.

I also am concerned that use of such profanity reflects a regrettable coarsening of the language and images on television today. Many observers have commented on the increase in offensive programming on broadcast television. I have been troubled by this trend for some time now, and have been actively encouraging broadcasters and cable operators to offer more tools for parents to deal with this trend. For example, in an article I wrote at the end of 2002 and in my remarks before the National Association of Television Program Executives last January, I expressed my disappointment in the choices facing parents who want to watch television together as a family.² I encouraged broadcasters to bring back the Family Viewing Hour – to devote the first hour of prime time to family-friendly programs. Your recent study highlighted the need for such a commitment, noting that from 1998-2002, this hour experienced the greatest increase (95%) of inappropriate language.

But I would not place the burden on broadcasters alone; I also have called on cable and satellite operators to offer a family-friendly programming package, so that parents could enjoy the excellent family-oriented channels available without being forced to subscribe (and pay for) the channels they believe have less appropriate programming. Together, these steps would empower parents and enhance the value that television can offer.

Certainly, broadcasters and cable operators have significant First Amendment rights, but these rights are not without boundaries. They are limited by law. They also should be limited by good taste. Broadcast networks, in particular, have a higher duty to use the public airwaves in the public interest. As the CBS network recently stated in a press release, “a free broadcast network, available to all over the public airwaves, has different standards than media the public must pay to view.” It is my hope that these standards rise to what Americans deserve. Certainly, it is critical that the FCC do its part.

Sincerely,

Kevin J. Martin

² Copies of these documents are available on my website at http://hraunfoss.fcc.gov/edocs_public/attachmatch/DOC-234613A1.doc and <http://www.fcc.gov/Speeches/Martin/2003/spkjm301.pdf>.