

Statement of FCC Commissioner Jonathan S. Adelstein

Before the Senate Committee on Commerce, Science, and Transportation
Hearing on “Protecting Children from Violent and Indecent Programming”

And House Subcommittee on Telecommunications and the Internet
Hearing on H.R. 3717, “The Broadcast Decency Enforcement Act of 2004”

February 11, 2004

Mr. Chairman, Mr. Ranking Member, and members of the Committee, thank you for inviting me to testify.

Like many of you, I sat down with my wife and children to watch the Super Bowl. I was expecting a showcase of America’s best talent, both on and off the field, and the apotheosis of our cultural creativity during the entertainment and advertising portions. Instead, like millions of others, I was appalled by the halftime show – not just for the shock-value stunt at the end, but for the overall raunchy performance displayed in front of so many children – one in five American children were watching, according to reports. And the advertising set a new low for what should air during family time.

The Super Bowl is a rare occasion for families to get together to enjoy a national pastime everyone should be able to appreciate. Instead, a special family occasion was truly disrespected.

I could highlight any number of tasteless commercials that depicted sexual and bodily functions in a vile manner. Any sense of internal controls appeared out the window, so long as the advertiser paid the multi-million dollar rate.

One commercial that really stung my family, and many other parents with whom I spoke, was a violent trailer for an unrated horror movie. It showed horrible monsters with huge fangs attacking people. I literally jumped out of my chair to get between the TV and my three-year old. Other parents told me they couldn’t reach for the remote control fast enough. I wonder how those who chose to broadcast such violence can sleep at night when they gave so many American children nightmares.

No parent should have to jump in front of the TV to block their children from such images, whether during a commercial or a halftime show. No parent should feel guilty for not being with their child every single moment in case they need to block the TV during what most would consider to be a family viewing event.

The entire Super Bowl broadcast was punctuated by inappropriate images that were an embarrassment for our country. The halftime show, with its global appeal, was a wasted opportunity to showcase the best that U.S. culture has to offer. The U.S. has the world’s greatest musical culture to promote across the globe, and that includes the many

artists who performed at the event. Our musicians and artists offer a vibrant musical melting pot that expands our horizons and enriches our culture. As a musician myself, I am proud of artists who everyday express their creativity without trying to one up each other in shock value. There is plenty of magnificent talent here for the whole family to enjoy. It is those performances that broadcasters should showcase. Instead, the halftime show needlessly descended into lewdness and crassness.

This latest incident is only the tip of the iceberg. There is nearly universal concern about the state of our public airwaves. I personally received more than 10,000 emails last week, and the FCC received more than 200,000. But that pales in comparison to the number of people who over the past year expressed their outrage to me about the homogenization and crassness of the media. The public is outraged by the increasingly crude content they see and hear in their media today. They are fed up with the sex, violence, and profanity flooding into our homes. Just this month at an FCC hearing in San Antonio, a member of the audience expressed concern with indecency on Spanish-language television novellas.

Complaints are exploding that our airwaves are increasingly dominated by graphic and shocking entertainment. Some observe that broadcasters are only responding to competition from cable programming. Take MTV, a cable network known for pushing the envelope. It's owned by Viacom, which also owns CBS. It's no coincidence that MTV produced the halftime show. But the network thoughtlessly applied the cable programmer's standards during the Super Bowl – the ultimate family event.

As a musician, I recognize that channels like MTV have a place in our society. I also understand and respect that many would prefer that they not intrude into the mainstream of American family life. Parents who purchase cable television have the legal right to block any channel they don't consider appropriate for their children. More parents should be made aware of this right. Free over-the-air broadcasting, however, offers no such alternative to parents. For broadcast material designed for mature audiences, it's a matter of the right time and place.

Enough is enough. As a parent and an FCC Commissioner, I share the public's disgust with increasingly crude radio and television content.

I've only served on the Commission for about a year, but I'm proud that we've stepped up our enforcement in that time. And we need to ramp it up even further. In my view, gratuitous use of swear words or nudity have no place in broadcasting.

We need to act forcefully now. Not surprisingly, complaints before the FCC are rising rapidly, with more than 240,000 complaints covering 370 programs last year. In the cases on which I have voted, I have supported going to the statutory maximum for fines. But even this statutory maximum - \$27,500 per incident - is woefully inadequate. I welcome the efforts by Congress to authorize us to increase fines substantially across all our areas of jurisdiction.

Awaiting such authority, I've pushed for new approaches to deter indecency. We can increase the total amount of fines by fining for each separate utterance within the same program segment. And we need to hold hearings to consider revoking broadcasters' licenses in serious, repeated cases. I worked last April to have the FCC put broadcasters on notice that we were taking these steps to establish a stronger enforcement regime. Our challenge now is to act more quickly when we get complaints, and to ensure that our complaint procedures are as consumer-friendly as possible.

But there are limits to what the FCC can do. We must balance strict enforcement of the indecency laws with the First Amendment. If we overstep, we risk losing the narrow constitutional authority we now have to enforce the rules. Nevertheless, many cases I have seen in my tenure are so far past any boundary of decency that any broadcaster should have known the material would violate our rules.

So it may very well take more than the FCC to turn this around. We are not the only ones with a public trust to keep the airwaves free from obscene, indecent and profane material. Broadcasters are given exclusive rights to use the public airwaves in the public interest. The broadcasters themselves bear much of the responsibility to keep our airwaves decent. As stewards of the airwaves, broadcasters are in the position to step up and use their public airwaves in a manner that celebrates our country's tremendous cultural heritage. Or they can continue down the path of debasing that heritage. Their choices ultimately will guide our enforcement.

Serving local communities is the cornerstone of the broadcaster's social compact with the public. When people choose to become licensed broadcasters, they understand that a public service responsibility comes with that privilege. In his famous remarks lamenting the "vast wasteland" of television, Newton Minow rightly observed that, "an investment in broadcasting is buying a share in public responsibility."¹ Every broadcaster should take that to heart. Public responsibility may mean passing up an opportunity to pander to the nation's whims and current ratings trends when it is more important to stand up and meet the needs of the local community.

Broadcasters need to show more corporate responsibility. They must rise above commercial pressures, and recognize the broader social problems they may be compounding.

Many factors set the cultural and moral tone of our society. I welcome the attention that our indecency enforcement is receiving. I don't think of it as silly or overblown, as some have suggested. The question before America is whether the coarsening of our media is responsible for the coarsening of our culture, or vice versa. My answer is both. They feed on each other.

¹ Newton N. Minow, "Television and the Public Interest" Speech Before the National Association of Broadcasters (May 9, 1961).

Media consolidation only intensifies the pressures. Fast-growing conglomerates focus on the bottom line above all else. The FCC should reconsider its dramatic weakening of media ownership limits last summer.

Local broadcasters also need the ability to reject network programming that doesn't meet their communities' standards. The FCC must preserve the critical back-and-forth local affiliates have with the networks in the fight against indecency.

In terms of taking positive steps, the FCC can do more to help families. Because our particular focus today is on children, one vital step is completing a pending rulemaking on children's television obligations of digital television. The FCC started this proceeding more than three years ago, yet it remains unfinished. We should quickly complete this proceeding to help meet children's educational needs, and give parents tools to help their children make appropriate viewing choices.

During the Super Bowl, and on far too many other occasions, people feel assaulted by what is broadcast at them. My job is to protect our families from the broadcast of obscene, indecent or profane material. That also means promoting healthy fare for our children. After all, the airwaves are owned by the American people, and the public is eager to take some control back.