

**STATEMENT OF  
COMMISSIONER DEBORAH TAYLOR TATE**

*Re: Complaints Against Various Television Licensees Concerning Their February 1, 2004 Broadcast of the Super Bowl XXXVIII Halftime Show, Forfeiture Order; Complaints Regarding Various Television Broadcasts Between February 2, 2002 and March 8, 2005, Notices of Apparent Liability and Memorandum Opinion and Order; Complaints Against Various Television Licensees Concerning Their December 31, 2004 Broadcast of the Program "Without A Trace", Notice of Apparent Liability for Forfeiture*

Today marks my first opportunity as a member of the Federal Communications Commission to uphold our responsibility to enforce the federal statute prohibiting the airing of obscene, indecent or profane language.<sup>1</sup> To be clear – I take this responsibility very seriously. Not only is this the law, but it also is the right thing to do.

One of the bedrock principles of the Communications Act of 1934, as amended, is that the airwaves belong to the public. Much like public spaces and national landmarks, these are scarce and finite resources that must be preserved for the benefit of all Americans. If numbers are any indication, many Americans are not happy about the way that their airwaves are being utilized. The number of complaints filed with the FCC reached over one million in 2004. Indeed, since taking office in January 2006, I have received hundreds of personal e-mails from people all over this country who are unhappy with the content to which they – and, in particular, their families – are subjected.

I have applauded those cable and DBS providers for the tools they have provided to help parents and other concerned citizens filter out objectionable content. Parental controls incorporated into cable and DBS set-top boxes, along with the V-Chip, make it possible to block programming based upon its content rating. However, these tools, even when used properly, are not a complete solution. One of the main reasons for that is because much of the content broadcast, including live sporting events and commercials, are not rated under the two systems currently in use.

I also believe that consumers have an important role to play as well. Caregivers – parents, in particular – need to take an active role in monitoring the content to which children are exposed. Even the most diligent parent, however, cannot be expected to protect their children from indecent material broadcast during live sporting events or in commercials that appear during what is marketed to be “appropriate” programming.

Today, we are making significant strides toward addressing the backlog of indecency complaints before this agency. The rules are simple – you break them and we will enforce the law, just as we are doing today. Both the public and the broadcasters deserve prompt and timely resolution of complaints as they are filed, and I am glad to see us act to resolve these complaints. At the same time, however, I would like to raise a few concerns regarding the complaints we address in these decisions.

First, I would like to discuss the complaint regarding the 6:30 p.m. Eastern Daylight Time airing of an episode of *The Simpsons*. The *Order* concludes that this segment is not indecent, in part because of the fact that *The Simpsons* is a cartoon. Generally speaking, cartoons

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<sup>1</sup> See 18 U.S.C. § 1464.

appeal to children, though some may cater to both children and adults simultaneously. Nevertheless, the fact remains that children were extremely likely to have been in the viewing audience when this scene was broadcast. Indeed, the marketing is aimed at children. If the scene had involved real actors in living color, at 5:30 p.m. Central Standard Time, I wonder if our decision would have been different? One might argue that the cartoon medium may be a more insidious means of exposing young people to such content. By their very nature, cartoons do not accurately portray reality, and in this instance the use of animation may well serve to present that material in a more flattering light than it would if it were depicted through live video. I stop short of disagreeing with our decision in this case, but note that the animated nature of the broadcast, in my opinion, may be cause for taking an even closer look in the context of our indecency analysis.

Second, our conclusion regarding the 9:00 p.m. Central Standard Time airing of an episode of *Medium* in which a woman is shot at point-blank range in the face by her husband gives me pause. While I agree with the result in this case, I question our conclusion that the sequence constitutes violence *per se* and therefore falls outside the scope of the Commission's definition of indecency. Without question, this scene is violent, graphically so. Moreover, it is presented in a way that appears clearly designed to maximize its shock value. And therein lies my concern. One of the primary ways that this scene shocks is that it leads the viewer to believe that the action is headed in one direction – through dialogue and actions which suggest that interaction of a sexual nature is about to occur – and then abruptly erupts in another – the brutally violent shooting of a wife by her husband, in the head, at point-blank range. Even though the Commission's authority under Section 1464 is limited to indecent, obscene, and profane content, and thus does not extend to violent matter, the use of violence as the "punch line" of titillating sexual innuendo should not insulate broadcast licensees from our authority. To the contrary, the use of sexual innuendo may, depending on the specific case, subject a licensee to potential forfeiture, regardless of the overall violent nature of the sequence in which such sexual innuendo is used.

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Finally, I would like to express my hope and belief that the problem of indecent material is one that can be solved. Programmers, artists, writers, broadcasters, networks, advertisers, parents, public interest groups, and, yes, even Commissioners can protect two of our country's most valuable resources: the public airwaves and our children's minds. We must take a stand against programming that robs our children of their innocence and constitutes an unwarranted intrusion into our homes. By working together, we should promote the creation of programming that is not just entertaining, but also positive, educational, healthful, and, perhaps, even inspiring.