

SCNA NUDE NEWS ARCHIVE

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ZEALOTS THREATEN TO IMPOSE THEIR OWN "INDECENCY" RULES ONTO PUBLIC TV

AND CABLE SHOWS

THE BATTLE OVER TV PROGRAM CONTENT CONTINUES...

The fight against “indecentcy on the airwaves” came to the forefront after the Janet Jackson Super Bowl incident. It forced nudists to realize the Feds are defining “prime-time smut” as anything that the Taliban wouldn’t allow on Afgan television. The battle over what is defined as “indecent,” just who is doing that defining, and the penalties for any violation cut to the core of our naturist values. They affect not only our right to watch what we want on television and on the Internet but also our ability to have our personal photographs developed at Wal-Mart without fear of arrest. Several events occurred during the past few months of interest to nudists, and those stories are reprinted below in chronological order. See if you “connect the dots” the same way we did...

TWO FCC COMMISSIONERS TO RESIGN

March, 2005 - FCC Chairman Michael Powell and a second commissioner, Ken Ferree, have both decided to leave office at the end of March, but this may not be good news for the naturist community. Powell is the man who imposed the new indecency rules and heavy fines on the broadcast media following the Janet Jackson incident a year ago.

President Bush is expected to name another FCC board member Kevin Martin as Powell’s replacement, thus allowing him to name two more commissioners to the board without the need for Senate confirmation.

Observers say that Martin is more “hard-line” than Powell on indecency issues and has a stated position that all cable and Internet channels should fall under some kind of indecency regulation.

FCC'S MARTIN SENDS CABLE INDUSTRY A WARNING ON "INDECENCY"

04/05/05 - You just knew it was going to happen. On March 2, the Los Angeles Times reported that the chairmen of both the House and Senate Commerce committees would seek legislation to subject cable television channels to "the same indecency rules as broadcasters using public airwaves."



Kevin Martin
(FCC)

Sen Ted Stevens (R-Alaska) and Rep Joe Burton (R-Texas) said they weren't sure if they would introduce separate legislation or try to attach a cable-indecency rider to another measure (like an important appropriations bill).

"Cable technology already provides families with tools to block unwanted channels in the home," responded Brian Dietz, a spokesperson for the National Cable and Telecommunications Assn.

In 2000 the Supreme Court held that US indecency standards applied only to broadcasts on non-cable stations. Rudy Baca, a media legal analyst, is quoted in the article as saying that any legislation regulating cable indecency is likely to be struck down by the courts under First Amendment protection. "But that doesn't mean Congress won't try. Any law they pass will be on the books for several years until any legal case winds its way through the court system, regardless of its ultimate fate."

AN LA TIMES EDITORIAL RESPONDS

Published April 6, 2005

Senator Ted Stevens of Alaska is wrong for demanding that cable and satellite television programming be subjected to the same inconsistent indecency rules that now saddle broadcast TV. But Rep. F. James Sensenbrenner Jr (R-Wis.) makes Stevens look like a hippie. At a national cable television industry meeting last week he argued for criminal prosecutions instead of fines for those who offend viewer sensibilities. What's next? Some vote-hungry politician embracing the death penalty for offending programmers? It doesn't help that the new chairman of the Federal Communications Commission, Kevin J. Martin, ingratiated his way into the job by playing to social conservatives. His job is not that of a censor in chief.

Martin tried to sound a conciliatory note at a cable industry confab in San Francisco on Tuesday, mainly by stating the obvious point that he has no jurisdiction to crack down on cable smut. But given this track record, there was something ominous about his exhortations that cable executives clean up their act. There was an implicit "or else."

Instead of addressing cable executives, Martin should be busy clarifying what constitutes indecency for broadcasters and end the confusion that is causing them to unnecessarily censor themselves to the detriment of viewers – as happened last year when some ABC affiliates refused to air the Steven Spielberg film *Saving Private Ryan* for fear that its profanity would trigger FCC fines.

Broadcasters complain that they are not competing on a level playing field because competing cable networks don't face the same regulatory scheme, which is justified by the fact that the airwaves are a scarce public resource. Some disparity is unavoidable, and the worst thing that could happen – at least until the courts ruled the move unconstitutional – would be for Washington to try to impose the same restraints on cable that broadcasters face.

A better way to address the disparity now is by loosening the controls on broadcasters and making the rules clearer.

As for the cable industry, it could ease some of the political pressure on itself if it devised a programming rating system that was consistent and believable.

The industry also must do a better job of promoting and explaining the existing technology that parents can use to keep their homes free from programming they find offensive. Most households get television programming (including broadcast fare) through cable or satellite services that already allow parents to keep their children from watching potentially offensive channels. Digital technology is giving parents the ability to block specific programs.

Finally, cable operators would be wise to allow consumers to purchase programming on an a la carte basis. If you don't want it, don't buy it.

BROADCASTERS PLAN TO OFFER VOLUNTARY CODE ON INDECENCY TO POLICE INDUSTRY'S AIRWAVES

Based on a Los Angeles Times article by Jube Shiver Jr.

4/20/05 LAS VEGAS — With bigger government fines looming and a new opinion poll showing 6 in 10 people "very concerned" about racy programs their children might see on television, broadcast executives on Tuesday said they would soon issue a voluntary indecency code for stations. The code, which could be formulated as early as June, would be aimed at slowing the anti-indecency movement that has gained momentum since last year, when critics were galvanized by such incidents as Janet Jackson's breast-baring Super Bowl performance. Broadcasters said they hoped to show that the industry can police itself on sex, language and violence.

Gary Chapman, chairman of LIN TV Corp. and co-chairman of the National Assn. of Broadcasters' task force on responsible programming, said members had discussed suggesting a five- to 10-second delay on some broadcasts, perhaps including live news feeds to prevent onlookers from shouting expletives into open microphones. Speaking to reporters at the NAB's convention here, Chapman said stations might be asked to beef up employee training about indecency standards, and educate parents about channel blocking technology. Another suggestion could include urging networks to let their local affiliates preview telecasts.

"We would certainly want to be self-regulated [rather] than government regulated," Chapman said. Broadcast executives said they were already moving on their own. Tony Vinciguerra, president and chief executive of Fox Networks Group, said he had already imposed changes at company stations. Those include delaying selective broadcasts, and even having paralegals monitor some shows. Because they are the ones fined, stations are on high alert with Congress poised to raise station penalties at least tenfold.

Speaking to the broadcasters, House Commerce subcommittee on telecommunications Chairman Fred Upton (R-Mich.), expressed confidence that a House measure boosting fines to \$500,000 per incident is legally sound. "We've done a very careful job to make sure that what we did won't be challenged in court," Upton said. The measure passed by a 10 to 1 margin in February. A pending Senate bill calls for maximum fines of \$350,000. On Tuesday, the Pew Research Center for the People & the Press said that a survey of 1,505 people showed that 69% support higher fines.

Some 60% of respondents said they supported requiring cable TV to follow the same indecency rules as broadcasters, and believe indecency rules should be more strictly applied when children are likely to be

watching. But they also expressed reservations about too much government regulation of content.

THE LEANING TOWER OF PBS

Based on several stories in the Los Angeles Times by Matea Gold, on 05/09/05 and 05/25/05, plus some original material on events that have occurred since:



Ken Tomlinson
(CPB)

Public television officials are increasingly fearful that PBS is reemerging as a political football after a series of efforts by Republicans to promote more conservative perspectives on the taxpayer-supported network. Station managers and programmers have expressed alarm about recent actions by officials of the Corporation for Public Broadcasting, the private nonprofit agency charged with distributing federal funds to public broadcasters.

Kenneth Tomlinson, the Republican chairman of the agency, has called for more conservative voices in PBS programming and recently hired a former White House official to help set up an ombudsman's office to evaluate the "fairness and balance" of public television and radio. Meanwhile, PBS itself has reined in several controversial programs, taking steps some public TV advocates see as self-censorship. "There is no smoking gun, but when things begin to add up in aggregate, you can really only draw one small subset of conclusions ... that CPB is caving to conservative Republican political pressure," said Garry Denny, associate programming director at Wisconsin Public Television and president of the Public Television Programmers Assn.



Pat Mitchell
(PBS)

In an interview, Tomlinson strongly disputed the notion that he is attempting to muzzle public broadcasters. "There has been absolutely no contact from anyone at the White House to me saying we need to do this or that with public broadcasting. I'm a fan of public broadcasting." But the consternation has risen to such a level that Tomlinson said he is worried about how it will impact PBS, which is facing a 25% cut in federal funding next year.



Patricia Harrison
(CPB)

The controversy is forcing PBS President Pat Mitchell to navigate some tricky political terrain. She criticized Tomlinson publicly for the first time at a National Press Club address on May 24, saying that polls have "repeatedly found that the public believes PBS is objective." She specifically cited a poll commissioned by Tomlinson's own CPB in 2003 that found that just 21% of viewers believe PBS had a liberal bias and 12% believe it has a conservative slant. She said she believed there have been inappropriate efforts to influence content. "Our responsibility is to tell the truth, no matter the consequences," she said. "PBS does not belong to any single constituency, no one political party, no activist group, no foundation, no funder, no agenda of any kind."

"I don't want to speculate about what his [Tomlinson's] motives are," Mitchell responded. "What I care about is what we're doing. And what we're doing is — any efforts from him, from the other side, from anywhere on the spectrum — we're going to resist."

Tomlinson discounted the poll's findings, citing the drop in viewers over the last decade as a sign of public discontent with PBS.

Many public broadcasters have watched the developments with distress, especially after Mitchell announced she will not seek re-nomination to the PBS Presidency once to her term expires at the end of the year. The anxiety —and Mitchell's decision - was triggered by several events. In January, PBS decided not to distribute an episode of the children's program "Postcards From Buster" that featured a family with

two women (who turned out to be lesbians but this was never said on the air.) Education Secretary Margaret Spellings said the show should not receive further public funding. Several weeks later, PBS sent member stations an edited version of a "Frontline" documentary about U.S. troops in Iraq.

In April, Corporation for Public Broadcasting chief Kathleen Cox resigned after nine months on the job. She was replaced by Ken Ferree, a Republican and top advisor to ex-Federal Communications Commission Chairman Michael Powell. Ferree raised eyebrows in a New York Times Magazine interview by saying he is seeking more conservative viewers and had trouble naming his favorite PBS shows. Tomlinson has used his 18-month tenure to scrutinize the political makeup of PBS programming. He complained about bias in the newsmagazine "Now," which was hosted by Bill Moyers at the time (Moyers decided to retire last December.)

At one point, Tomlinson quietly hired an outside consultant to track the political views of Moyers' guests in order to bolster his argument. Eventually, PBS picked up new shows featuring conservatives Tucker Carlson and Paul Gigot, but officials were alarmed by Tomlinson's aggressiveness.

In early April, the agency startled PBS officials by announcing the appointment of two ombudsmen to examine issues of "fairness and balance" in public broadcasting: Ken Bode, a former politics editor for the conservative New Republic magazine, and William Schulz, former executive editor of Readers Digest. Tomlinson tapped Mary Catherine Andrews, the former director of the White House Office of Global Communications, as his senior advisor.

"It's important that public broadcasting be independent in order to do the best possible job of serving the American public, and it is not helpful when you have people playing out political agendas," said David Hosley, general manager of KVIE, the public television station in Sacramento.

Mel Rogers, general manager of KOCE in Orange County, said he has received numerous e-mails and phone calls from viewers and members of his board about the corporation's actions.

Rogers does not believe there is an effort to eliminate PBS, but added. "What concerns me is that there appear to be some people at CPB now that seem to think that if there's anything on public television they disagree with, that it should go away," he said.

"What's happening at the Corporation for Public Broadcasting directly contradicts the very reason CPB was founded, which was to protect public broadcasting from political pressure," said Josh Silver, executive director of Free Press, a media reform group, which has called for Tomlinson's resignation. Tomlinson said he has no plans to step down.

PROBE OF SCRUTINY ON PBS IS URGED

5/9/05 - Two Democratic Congressmen have called for an investigation into allegations the chairman of the Republican party is putting pressure on the Corporation for Public Broadcasting (CPB) to "put more conservative programming onto the air." Reps. David Obey (D-Wis) and John Dingell (D-Mich) called the actions of CPB Chair Kenneth Tomlinson "deeply disturbing" because it appeared he was bowing to conservative pressure to "favor shows that tout the GOP agenda."

Kenneth Konz, the CPB's Inspector General is reviewing the charges, but observes doubt if the Republican-controlled Congress will ever call a hearing in response to this request.

PARTISAN FIGHT OVER PUBLIC TV CONTENT CONTINUES AS FUNDING IS CUT IN HALF

June, 2005 - The partisan drama continued this month over the fate of public-funded television. Congressional funding for the Corporation for Public Broadcasting (CPB) was slashed by \$200 million, almost in half, then partially restored after an Internet petition drive sent over 1 million signatures to lawmakers in just one week.

The CPB is a private, non-partisan body established in 1967 to distribute public federal funds to 1,100 public television and radio broadcasters including Radio Free America and the Public Broadcasting System (PBS). Some members of Congress also publicly admonished CPB chairman Ken Tomlinson for not fighting to restore the cut funds, and for his nomination of Patricia de Stacy Harrison to be President of the CPB. Harrison is the former chair of the Republican National Committee, and most recently served as an assistant secretary in the State Department. Tomlinson has been a very vocal critic of what he calls "liberal biased programming" on PBS. A two-page letter to President Bush, signed by 19 House members and 16 Senators said, "it is essential that the president of the organization, be a non-partisan chosen from the education or business community, as is its tradition" and asked for Tomlinson's resignation. The White House replied that it supported the chairman's actions.

This follows similar letters sent a few weeks ago from Mary Bitterman, chairwoman of PBS Board of Directors, who also expressed her concern at Tomlinson's previous attempts at intimidation regarding specific PBS programs on "Bill Moyer's Now", "Tavis Smily", the children's show "Postcards from Buster", and NPR's Daine Rehm. Last year, Tomlinson hired two Republican lobbyists without the approval of his CPB Board in order to monitor how "fair and balanced" were certain PBS shows. In protest, PBS President Pat Mitchell announced she would be stepping down when her term expires in June 2006. Moyers retired from his show last December. Despite a heated public hearing on June 23, Harrison's nomination was approved by the CPB Board of Directors on a 3-2 vote, along straight party lines. Harrison will now lead a bureau of 3650 employees. Just one week before, Republican members of the House Appropriations Committee pushed through a spending bill that would slash funding for public television by almost half (about \$200 million) from the funds it received the previous year. CPB funds make up about 15% of public broadcasting revenue, although this varies by media market. In Los Angeles, for example, CPB funds make up about 6% of KCET's operational income, but in many rural markets federal funding often covers about 50% of all their income, and in some areas, that figure is as high as 85%.

"This could mean the end of public broadcasting in upper Michigan," said Eric Smith, general manager of WNMU in Marquette.

Such drastic cuts could mean the end of such long-running shows as Frontline and Now (both long have been targets of conservatives). Sesame Street was also attacked recently for its inclusion of some new characters with "non-traditional" lifestyles.

Tomlinson responded to the proposed cuts by saying, "We'll get them restored through effective advocacy of balanced public broadcasting," which some interpret as meaning he can get the funds restored if more conservative-leaning programs are added to the schedule.

Meanwhile *Move.On*, the liberal Internet organization, gathered over one million signatures on-line in just one week, protesting Tominson's actions (and inactions), and calling for his resignation. Local stations also airing 30-second spots asking their viewers and listeners to write their Congressman asking the funds be restored.

In 1995, GOP House Speaker Newt Gingrich proposed to eliminate federal funding for PBS on ideological grounds but was rebuffed by a majority of Congress after a similar public outcry. Ironically, Gingrich appeared as the first guest on when Tavis Smiley's PBS program debuted last February.

Last week, the House of Representatives agreed 284-140 to restore \$100 million of the cuts to the CPB budget. Eighty-seven Republicans joined Democrats in supporting the increase.

Despite the partial victory, supporters of public television worry how Harrison will now distribute these federal funds, as the new president could ignore PBS entirely and channel the money to the Voice of America anti-terrorist broadcasting efforts instead, as she advocated while at the State Department.

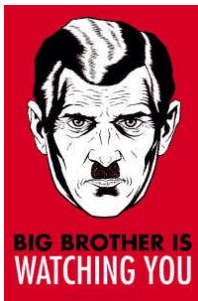
Still unresolved is the elimination of \$23 million for the Ready-to-Learn program, which helps finance programs such as Sesame Street. Those funds were not restored by the recent House vote.

David Hosley, general manager of KVIE, Sacramento's public television station summed it up by saying, "This is probably the most tumultuous time that we have had."

WELCOME TO OCEANIA?

06/17/2005 By John Paczkowski at *SiliconValley.com*

Just like as in George Orwell's 1984, we see evidence that the U.S. Department of Justice may be dreaming of a Total Surveillance State in the name of "national security."



News.com reports the agency is considering new data retention legislation that would require Internet service providers to retain records of their customers' online behavior. Why? For the children, of course. At a private meeting with Internet service providers this past April, the DOJ proposed the companies retain their customers' data beyond the 90 days mandated by Electronic Communication Transactional Records Act and without the request of a governmental entity. "It was raised not once but several times in the meeting, very emphatically," Dave McClure, president of the U.S. Internet Industry Association, told News.com. "We were told, 'You're going to have to start thinking about data retention if you don't want people to think you're soft on child porn.'"

The DOJ said ISPs should voluntarily implement broader data retention policies, but noted as well, that it was not above legislating them if it had to. This implied threat is what concerns privacy advocates who fear the ISPs data might be misused.

Said Marc Rotenberg, director of the Electronic Privacy Information Center: "Even if your concern is chasing after child pornographers, the packets don't come pre-labeled that way. What effectively happens is that all ISP customers could become potential targets of subsequent investigations."

U.S. APPEALS COURT RULES AGAINST FCC'S "BROADCAST FLAG" REGULATIONS

05/06/05 -The U.S. Court of Appeals in Washington staged a flag burning of sorts today, unanimously ruling that the FCC does not have the authority to require makers of TV sets to equip them with a "broadcast flag" that would prevent digital broadcast signals from being received. Civil libertarians had charged that such a "flag" could be used by the government in the future to "turn off" certain network broadcasts or emails it didn't like.

"Broadcast Flag" legislation was proposed in Congress in 2003 initially because several large

entertainment conglomerates (Viacom and Sony) testified that the new high-definition TV technology, “makes it too easy for pirates to make high quality copies of broadcast programs and then sell them on the Internet.” Congress has been anxious to get Americans to switch to digital televisions so it can shut down the analog broadcast towers and auction the spectrum they use to cellular carriers, so they came up with the “flag” idea, which opponents soon realized could also be used by the federal government to censor broadcasts it didn’t like. A year ago, Congress decided to back away from any formal legislation and instead directed the FCC to create a Broadcast Flag policy under its ability to regulate the industry. The regulations were supposed to take effect this July 1.

That’s when the Electronic Frontier Foundation (EFF), a nonprofit organization that works to uphold civil liberties in technology law, filed the lawsuit, which the Appeals Court has now affirmed. “This victory also protects the privacy of persons who use Web TV to send e-mail,” said a spokesperson for EFF. “Thanks to this ruling, the Feds will not be able to use this new technology to shut down email accounts simply because they don’t like the content of the messages.”

No word yet on whether House Majority Leader Tom DeLay thinks this U.S. Appeals Court ruling was “too activist.”

“BROADCAST FLAG” SUPPORTERS RESURRECT SNOOP LEGISLATION

06/21/05 By John Paczkowski at SiliconValley.com

Looks like we haven't yet heard the last of the “Broadcast Flag.” Big Brother, it seems, refuses to die quietly.

Last month we reported on the U.S. Court of Appeals ruling that said the FCC does not have the authority to require makers of TV sets to equip them with “Broadcast Flag” copy protection technology (in essence allowing the government to monitor what cable programs people are watching, and, if they use high-speed cable for the Internet, to also monitor personal email and Internet sites visited – all in the name of “national security”). Unfazed, a group of lawmakers have snuck an amendment into an appropriations bill for the FCC on an unrelated subject that is sure to pass the full Senate sometime in July.

Opponents, including the ACLU and the Electronic Frontier Foundation (EFF), are telling their members to send email to their US Senators demanding the “stealth amendment” be removed.

September 2006: HERE’S THE LATEST FROM THE WASHINGTON “MORALITY POLICE”

Several stories broke during September affecting the FCC’s campaign to restrict what we are allowed to see on the airwaves. The following text has several sources, principally a series of stories by Jim Puzanghera in the Los Angeles Times, John Paczkowski of SiliconValley.com, and freelancer Lorenza Muñoz of the Washington Post.

PTC FILES FCC COMPLAINT AGAINST NBC ALLOWING “ASS” ON THE AIRWAVES

09/01/2006, Washington –The Parents Television Council called on federal regulators Thursday to fine NBC for “vulgar and obscene” comments by two actresses during Sunday’s broadcast of the Primetime Emmy Awards. After making a slight trip while walking up to the stage to accept a best actress Emmy for HBO’s “Elizabeth I,” Helen Mirren commented she was “glad I didn’t fall on my ass” on the way up the stairs. A few minutes later, Calista Flockhart repeated the phrase before presenting another award. The comments aired before 10 p.m. in the Central and Mountain time zones, when federal law prevents

obscene language on over-the-air broadcasts.

"It is utterly irresponsible and atrocious for NBC to air this vulgar language ... when millions of children were in the viewing audience," Parents Television Council President L. Brent Bozell said in a written statement. Congress dramatically raised the stakes for indecency complaints in June, boosting fines tenfold, to a maximum of \$325,000 for each violation.

Awards shows have caused indecency problems for networks in the past. Rock star Bono uttered the F-word on NBC's broadcast of the 2003 Golden Globe awards. Cher used the word during the 2002 Billboard Music Awards on Fox, and Nicole Richie used the F-word and the S-word on Fox's broadcast of the awards show the following year. FAMILY COUNCIL STEAMED OVER 'VEGGIE TALES' CUTS 09/22/2006 – The Parents Television Council has a beef with NBC but not about televising curse words. It's about the word "God."

The council wants to know why the network edited out some references to God from "VeggieTales," a popular children's series that airs on NBC on Saturday mornings. The conservative group accuses the network of having a double standard when it comes to Christianity.

"NBC has stepped in doodoo again," said Parents Television Council President L. Brent Bozell. "Why in the world take out the very essence of what made the 'Veggie' shows successful? It is not a smash hit in spite of its message. It is a hit because of its message."

"VeggieTales" is an animated home video series that uses biblical stories as reference points to teach children about morality and values. It has sold more than 50 million DVDs since its launch in 1993, according to Big Idea Inc., producers of the series.

The show began airing on NBC two weeks ago.

In a statement, NBC said the editing was done to keep the shows under a certain time limit. "VeggieTales was originally created for home entertainment and in most cases each episode is 30 minutes long," according to the statement. VeggieTales has been edited down for broadcast without losing any of its core messages about positive values."

But Phil Vischer, creator of the show, maintains that the network received five to six episodes, all of which were 23 minutes, the length requested by the network. Vischer said the network requested editing out specific references to God such as "God made you special" and "He loves you very much."

"Talking about a Bible story or God as a historical thing is OK, but implying that it could affect your life in some way is apparently not OK," Vischer said. "It's a little funky." On related news, the Parents Television Council and American Family Assn., an advocacy group, have asked NBC to cut a crucifixion scene from a Madonna concert tour that the network plans to air. NBC is in discussions with the singer's representatives about cutting the scene, said people close to the network.

NBC declined to comment.

PRESIDENT OF TV INDECENCY WATCHDOG GROUP TO STEP DOWN

L. Brent Bozell, the conservative activist who launched thousands of indecency complaints against broadcasters, announced Friday that he would step down as president of the Parents Television Council. Although he complained that there was still too much offensive content on TV, Bozell said his group has

had a major effect since he founded it more than a decade ago. Had we not been active, Lord knows where television would be today," he said. "I'm convinced we would have full nudity by now."

The Parents Television Council began as an offshoot of Bozell's Media Research Center, a Virginia-based group that monitors the media for what it sees as liberal bias. As the PTC grew to more than a million members, Bozell said he could no longer run both groups.

The nephew of conservative icon William F. Buckley Jr., Bozell has appeared frequently on TV talk shows to criticize network programming.

He seized on Janet Jackson's "wardrobe malfunction" during CBS' telecast of the 2004 Super Bowl halftime show and other incidents to press federal regulators to crack down on indecency and persuade Congress to increase maximum fines tenfold.

By offering an automated form on its website, the PTC has helped flood the Federal Communications Commission with complaints about TV and radio broadcasts in recent years.

In 2000, the FCC received just 111 complaints that resulted in \$48,000 in fines. By 2004, the FCC had received 1.4 million complaints resulting in \$7.9 million in fines. The numbers have decreased since then, to 233,531 complaints in 2005. In the first three months of this year, the FCC received 275,131 complaints. The repercussions were felt in Congress. In June, lawmakers voted to increase the maximum fine on TV and radio stations to \$325,000, from \$32,500, for each indecency violation.

APPEALS COURT TEMPORARILY BARS FCC FROM USING STRICTER STANDARDS PENDING A CHALLENGE.

09/08/2006, Washington DC — A U.S. appeals court Thursday temporarily applied the brakes to the Federal Communications Commission's indecency crackdown, barring enforcement of some tougher standards while judges consider a legal challenge by the four broadcast TV networks and their affiliates. The court action stems from a March FCC ruling that uttering certain expletives such as the F-word and the S-word, even in isolated instances, was indecent. Combined with a tenfold increase in maximum fines that took effect this summer, the agency's recent actions have made broadcasters hesitant to air controversial programs and quick to suspend or fire employees who accidentally blurt out expletives on the air. Some network executives said Thursday's ruling by the U.S. 2nd Circuit Court of Appeals in New York shows they have a good chance of overturning the new precedent.

"The 2nd Circuit, in granting our stay request, has recognized the serious 1st Amendment issues that are raised in this appeal and the chilling effect of the FCC's indecency enforcement scheme," News Corp. said in a written statement.

In March, the FCC ruled on a number of indecency complaints by consumers who had objected to programs that aired between February 2002 and February 2004. The four networks sued the agency in April charging that the March ruling was unconstitutional.

John Crigler, a Washington communications attorney, said the court ruling was good news for broadcasters. It temporarily halts the FCC from basing future indecency fines on the stricter standards it set in four of those cases.

"The court is worried that this profanity standard is based upon a constitutionally faulty premise, and it

doesn't want the commission going out and issuing new rulings until this standard is tested," Crigler said. An FCC official downplayed the significance of the court's ruling, saying it did not give broadcasters a free pass to broadcast indecent material. Blair Levin, a former FCC chief of staff, said, "this court decision doesn't mean the [broadcasters] are going to win."

As a result of the FCC's recent rulings and the higher fines, at least two dozen CBS affiliates plan to replace or delay airing "9/11," an award-winning documentary of the Sept. 11 terrorist attacks. The program aired in 2002 during prime time with no fines, but that was before stricter indecency standards were in place. The stations are worried that coarse language in the program could result in fines after the CBS broadcast Sunday night.

Despite Thursday's court decision, Sinclair Broadcast Group, Inc. didn't reverse its decision to delay the documentary until after 10 p.m. on its CBS affiliates in Portland, Maine, and Cedar Rapids, Iowa. Indecency rules don't apply after 10 p.m.

[See Bruce? You resign and a few days later the whole Movement goes to hell....(can I use that word?) – Ed.]

INTERNET VS THE GOVERNMENT: ALL IN FAVOR OF HYSTERIA, PANIC AND MISINFORMATION, SAY "AYE"

By John Paczkowski at SiliconValley.com

July 28, 2006 — Given the recent outcry over MySpace, I suppose I shouldn't be surprised that the U.S. House passed the Deleting Online Predators Act (DOPA) with an overwhelming majority. But I can certainly be disappointed. With a 410-15 vote (410-15!!!) Thursday, politicians approved the bill, which will block access to social networks and Internet chat rooms in most federally funded schools and libraries.

"Social networking sites, best known by the popular examples of MySpace, Friendster and Facebook, have literally exploded in popularity in just a few short years," Rep. Mike Fitzpatrick, a Pennsylvania Republican and one of DOPA's original sponsors, said of the bill. Today these sites "have become a haven for online sexual predators who have made these corners of the Web their own virtual hunting ground." While certainly well-intentioned, DOPA -- like most Internet legislation Congress has scribbled up -- is laughably imprecise. It's so overly broad that it denies access to any area of the Internet where users may post home pages or other information. Here's how DOPA defines social networking sites:

- is offered by a commercial entity;
- permits registered users to create an on-line profile that includes detailed personal information;
- permits registered users to create an on-line journal and share such a journal with other users;
- elicits highly-personalized information from users; and
- enables communication among users.

Great work, Congress, you've just barred anyone who depends upon their local libraries for access to the Web from viewing eBay, Yahoo, MSN, AOL and Amazon.

As one might imagine, educators and librarians aren't exactly thrilled with DOPA. Said American Library Association President Leslie Berger, "This unnecessary and overly broad legislation will hinder students' ability to engage in distance learning and block library computer users from accessing a wide array of

essential Internet applications including instant messaging, email, wikis and blogs...As libraries are already required to block content that is 'harmful to minors' under the Children's Internet Protection Act (CIPA), DOPA is redundant and unnecessary legislation."

"...MySpace can hire all the security officers it wants, and it could replace every ad with a flashing banner that says "DO NOT TRUST RANDOM STRANGERS!!!", and send fliers to every parent in America ... and bad things would still happen to kids connected to the Internet. A lot of parents aren't very good at parenting, and part of being a teenager is saying and doing stupid things..." -- Scott Granneman, "MySpace, a place without MyParents"

TELEVISION VS THE FCC: BUSH NOMINEE CONFIRMED FOR FCC AND IT GOES TO WORK AGAINST "INDECENCY"

News out of Washington DC regarding their "War on Indecency" has been pushed out of the headlines of late, but that doesn't mean the Morality Police haven't been busy protecting our rights NOT to see skin on the tube. In May, the Senate filled the long-vacant fifth seat on the Federal Communications Commission, giving conservatives a clear majority. Robert McDowell, a telecommunications lawyer and fund-raiser for the Bush re-election campaign during 2004, had been nominated by President Bush in early February.

At his first FCC meeting in June, McDowell joined the majority in denying CBS Corp.'s appeal of a \$550,000 fine imposed for the 2004 Super Bowl halftime show in which singer Janet Jackson's breast was exposed. The FCC found CBS' violation was willful, and dismissed CBS' claim that the indecency rules were vague.

That same week, Congress passed a bill to raise maximum fines tenfold against broadcasters for airing indecent material (defined as "nudity, obscenity and sexual references on the public airwaves"), and sent the measure to President Bush to be signed into law. The legislation boosted to \$325,000 per violation the penalty that the Federal Communications Commission could levy against television and radio stations. The penalties would not apply to subscription services such as cable or satellite television and satellite radio, although another bill covering cable stations was recently introduced by Sen. Ted Stevens (R-Alaska).

Los Angeles-based Parents Television Council had started the "decency" campaign by bombarding more than half a million complaints with the FCC two years ago.
