

**Justice Talking Listening Guide**  
**The FCC Crackdown on Indecency**  
5/22/06

**SHOW SUMMARY**

The Federal Communications Commission has recently imposed record fines against television networks for airing indecent programming before 10 p.m. CBS stations face a \$3.6 million fine for airing a reenactment of a teen orgy in "Without a Trace." PBS got fined for explicit language in an acclaimed series about blues music. But the FCC's actions raise serious questions about what is indecent and the limits of the First Amendment. On this edition of Justice Talking, we ask whether government efforts to police the airwaves violate free speech or are necessary to protect young viewers from harmful programming.



**Robert Hilliard**

- Part 1: Margot speaks with a mother attempting to protect her child from language and behavior she thinks is inappropriate, and a PBS station manager who sees things differently.



**Timothy Winter**

- Part 2: Communications professor **Robert Hilliard**, the author of "Dirty Discourse: Sex and Indecency in American Radio," speaks with Margot about the history of media regulation.



**David Greene**

- Part 3: Parents Television Council director **Tim Winter** debates First Amendment Project director **David Greene** about what is appropriate and inappropriate to broadcast on the public airwaves.



**David Adelstein**

- Part 4: FCC Commissioner **Jonathan Adelstein** speaks with Margot about the role government regulation plays in what you can and can't hear on the radio or see on your television.



**Steve Anderson**

- Part 5: **Steve Anderson**, the director of a film whose title we can't say on the radio or write here, speaks with Margot about his film and the history of the f-word.

**The New York Times**  
**LearningNetwork**

**"New Textbooks, New Pencils, New Internet Policies?"**

Read this *New York Times* article about the way some schools are setting policies for how students can use the Internet.

[http://www.nytimes.com/learning/teachers/featured\\_articles/20000824thursday.html](http://www.nytimes.com/learning/teachers/featured_articles/20000824thursday.html)



**Host Margot Adler**

Margot Adler is a National Public Radio correspondent based in NPR's New York Bureau. Adler has thirty years of experience as a radio host and reporter and is the author of several books. She lives in New York City with her husband and son.

## DEFINITION OF TERMS

- **Federal Communications Commission (FCC)** – an independent government agency established by the Communications Act of 1934 to replace the Federal Radio Commission. The FCC regulates use of the radio spectrum (the electromagnetic field on which radio and television are broadcast), interstate communications (wire, cable and satellite), and international communications that come from or to the United States. The regulations, which control ownership of media outlets and the content distributed by those outlets, are intended to protect the public interest. The FCC can take away a station’s license, fine them, or issue a warning if content deemed obscene, indecent, or profane is aired by that station.
- **Obscene, Indecent and Profane Content (as defined by the FCC, available at <http://www.fcc.gov/cgb/consumerfacts/obscene.html>)** –

Obscene material is not protected by the First Amendment to the Constitution and cannot be broadcast at any time. The Supreme Court has established that, to be obscene, material must meet a three-pronged test: 1) An average person, applying contemporary community standards, must find that the material, as a whole, appeals to the prurient interest; 2) The material must depict or describe, in a patently offensive way, sexual conduct specifically defined by applicable law; and 3) The material, taken as a whole, must lack serious literary, artistic, political, or scientific value.

The FCC has defined broadcast indecency as “language or material that, in context, depicts or describes, in terms patently offensive as measured by contemporary community standards for the broadcast medium, sexual or excretory organs or activities.” Indecent programming contains material that does not rise to the level of obscenity. The courts have held that indecent material is protected by the First Amendment and cannot be banned entirely.

The FCC has defined profanity as “including language so grossly offensive to members of the public who actually hear it as to amount to a nuisance.” Like indecency, profane speech is prohibited on broadcast radio and television between the hours of 6 a.m. and 10 p.m.

## DISCUSSION QUESTIONS

1. Timothy Winter of the Parents Television Council said during the show that it wasn’t only Janet Jackson’s wardrobe malfunction at the Super Bowl halftime show that was of concern to him, but also the nature of the performance itself. What do you think he meant, and do you agree?
2. Who should be responsible for regulating media content? The government? Parents? Why?



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