

THE FCC AND FREEDOM OF SPEECH

Background

The Federal Communications Commission (FCC) receives numerous complaints that television and/or radio networks, stations or their employees or guests have broadcast extreme, incorrect, or somehow improper political, economic or social statements. Often consumers complain that certain broadcast statements may endanger the United States or its people, or threaten our form of government, our economic system, or established institutions like family or marriage. They say these attacks are “un-American” and an abuse of freedom of speech. The FCC also receives complaints that some broadcast statements criticize, ridicule, “stereotype” or demean individuals or groups because of the religion, race, nationality, gender or other characteristics of the group or individual

What Is the FCC’s Responsibility?

The FCC is barred by law from trying to prevent the broadcast of any point of view. The Communications Act prohibits the FCC from censoring broadcast material, in most cases, and from making any regulation that would interfere with freedom of speech. Expressions of views that do not involve a “clear and present danger of serious substantive evil” come under the protection of the Constitution, which guarantees freedom of speech and freedom of the press. The FCC cannot suppress such expressions. According to an FCC opinion on this subject, “the public interest is best served by permitting free expression of views.” This principle ensures that the most diverse and opposing opinions will be expressed, even though some may be highly offensive. However, the Commission does have enforcement responsibilities in certain limited instances.

For example, the Courts have said that *indecent material* is protected by the First Amendment to the Constitution and cannot be banned entirely. It may be restricted, however, in order to avoid its broadcast when there is a reasonable risk that children may be in the audience. Between 6 am and 10 pm - when there is the greatest likelihood that children may be watching - indecent material is prohibited by FCC rules. Broadcasters are required to schedule their programming accordingly or face enforcement action.

Additionally, the Courts have said that *obscene material* is not protected by the First Amendment and cannot be broadcast at any time.

What Are the Broadcasters’ Responsibilities?

Individual radio and television station licensees are responsible for selecting all broadcast matter and for determining how their stations can best serve their communities. Broadcast licensees are responsible for choosing both the entertainment programming and the programming concerning local issues, news, public affairs, religion, sports and other subjects to be aired by the station. They also decide how their programs, including call-in shows, will be conducted and whether or not to edit or reschedule programs or material (for example, moving a program to a time slot where children may not be listening or watching).



What if I have a Comment and/or Concern About a Specific Broadcast or Statement?

You should direct all concerns and/or comments about a specific broadcast or statement, in writing, to the local station and network involved so that the people responsible for making programming decisions can become better informed about audience opinion.

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To receive information on this and other FCC consumer topics through the Commission's electronic subscriber service, click on www.fcc.gov/cgb/emailservice.html.

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