

TV, Obscenity and Regulation: When the 'Pig Enters the Parlour'

One can sympathize with GE and NBC Universal's Bob Wright in his network's efforts to cope with growing competition from the cable industry, the Internet and all the currently unregulated communications purveyors ("[Federal Censorship Commission?](#)" editorial page, Nov. 3). However, the question of broadcast decency and its regulation -- Mr. Wright's chief concern -- was settled by the Supreme Court in *Federal Communications Commission v. Pacifica Foundation*, 1978, when Justice John Paul Stevens, speaking for the majority, noted that "when the Commission finds that when a pig has entered the parlor, the exercise of its regulatory power does not depend on proof that the pig is obscene." The issue was whether the FCC has the power to regulate broadcasting that is "indecent" but not obscene, and Justice Stevens was referring to a previous case in which the court had reasoned that "a nuisance may be merely the right thing in the wrong place -- like a pig in the parlor instead of the barnyard." The *Pacifica* decision would seem to legitimize the FCC's current position on this matter.

Judging from the way FCC standards on indecency have evolved over the years, and coupling that with subsequent high court actions, there appears to be little cause for fears on the part of networks and their affiliated stations that the current crackdown on indecent language brings with it a government encroachment on normal programming.

Cases so far suggest the line is drawn between unexpected utterance of expletives during a live broadcast and indecency by design or through willful neglect. In the case of the network documentary "9/11," which many affiliates refused to carry for fear the show's language would subject them to fines by the FCC, this was a re-broadcast, and thus the network had the opportunity to delete the expletives beforehand.

The missing element in the broadcasters' case for laissez-faire is that not only children, but the mass audience -- the general public -- is highly susceptible to indecency on the air and the cheapening of broadcasting that is a result. To a greater extent than we perhaps realize, our society marches to the drumbeat of mass communications.

And if one could be forgiven a backward glance to the heyday of broadcasting -- say the '40s and '50s -- how would the Sarnoffs and Paleys have handled the current dilemma of the networks? They might not have solved it, but one thing is certain: The pig would have been kept out of the parlor.

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Bob Wright's commentary is typical of mass media's shoulder shrugging in today's marketplace. Unlike the cable networks and Internet that he cites as competition for NBC, his network is a steward of a precious public resource that is the owned and operated television stations division of NBC Universal, which represents several hundred millions of dollars in annual profit and upon being sold would represent more than a billion dollars of appreciated capital. The National Association of Broadcasters Television Code, abandoned by the broadcast television industry decades ago, was a self-policing code that broadcasters abided by and that assured the viewing public that messages transmitted over "our" airwaves would conform to a set of standards and practices so that parents would not have to be concerned about what content their children were watching on television.

Now, these same broadcast licensees possess both analog and digital spectrum space worth billions of dollars, abide by no set of broadcast standards and claim to be afraid of what they can telecast because of the specter of fines in the event an expletive is uttered by someone being interviewed on the news.

Mr. Wright -- give us a break. All stations and every production truck covering network sports is equipped with the technology to provide a five-second or longer delay, which can dump any expletive that might be uttered. Mr. Wright's complaint that the FCC is censoring his networks is a red herring. If he wishes to have the freedom to broadcast anything at any time, buy more cable networks. NBC Universal already owns Bravo, CNBC, MSNBC, USA and Sci-Fi network, which they have no problem using to promote first-run products for their NBC flagship network.

Additionally, Mr. Wright's flagship network of NBC broadcasts promotional messages for programs airing on its cable networks against the will of its affiliated broadcast stations (local NBC stations owned by other companies such as Gannett and Hearst-Argyle), driving those broadcast viewers over to its cable networks.

Mr. Wright, you control a billion-dollar organization. Stop blaming the FCC, read through the Television Code and remember the obligation you have as a licensee of broadcast television stations. Re-invent those stations by blowing up the old business model, making those broadcast stations relevant, needed and contributing to the community or turn those licenses back in to the FCC and let the free market do it. Since those stations generate cash flow with more than 50% margins, I think I know which way you will go. Whatever you do, stop whining and start doing something about it.

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