



PUBLIC NOTICE

Federal Communications Commission
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DA 13-581
Released: April 1, 2013

FCC REDUCES BACKLOG OF BROADCAST INDECENCY COMPLAINTS BY 70% (MORE THAN ONE MILLION COMPLAINTS); SEEKS COMMENT ON ADOPTING EGREGIOUS CASES POLICY

PLEADING CYCLE ESTABLISHED

GN Docket No. 13-86

Comment Date: 30 days after publication in the Federal Register

Reply Comment Date: 60 days after publication in the Federal Register

After the Supreme Court's decision in *FCC v. Fox Television Stations, Inc.*, 132 S.Ct. 2307 (2012), in September 2012, Chairman Genachowski instructed Commission staff to commence a review of the Commission's broadcast indecency policies and enforcement to ensure they are fully consistent with vital First Amendment principles. In the interim, the Chairman directed the Enforcement Bureau (Bureau) to focus its indecency enforcement resources on egregious cases and to reduce the backlog of pending broadcast indecency complaints. Since September 2012, the Bureau has reduced the backlog by 70% thus far, more than one million complaints, principally by closing pending complaints that were beyond the statute of limitations or too stale to pursue, that involved cases outside FCC jurisdiction, that contained insufficient information, or that were foreclosed by settled precedent. The Bureau is also actively investigating egregious indecency cases and will continue to do so.

We now seek comment on whether the full Commission should make changes to its current broadcast indecency policies or maintain them as they are. For example, should the Commission treat isolated expletives in a manner consistent with our decision in *Pacifica Foundation, Inc.*, Memorandum Opinion and Order, 2 FCC Rcd 2698, 2699 (1987) ("If a complaint focuses solely on the use of expletives, we believe that . . . deliberate and repetitive use in a patently offensive manner is a requisite to a finding of indecency.")? Should the Commission instead maintain the approach to isolated expletives set forth in its decision in *Complaints Against Various Broadcast Licensees Regarding Their Airing of the "Golden Globe Awards" Program*, Memorandum Opinion and Order, 19 FCC Rcd 4975 (2004)? As another example, should the Commission treat isolated (non-sexual) nudity the same as or differently

than isolated expletives? Commenters are invited to address these issues as well as any other aspect of the Commission's substantive indecency policies.

Today's Public Notice does not alter any of the Commission's current substantive indecency policies. While we build a record for the full Commission's consideration, the aforementioned directive to the Bureau to focus its indecency enforcement resources on egregious cases remains in force, and the Commission and/or Bureau may take enforcement actions during the pendency of this Public Notice.

For purposes of this proceeding, we are establishing a new docket, GN Docket No. 13-86. **All comments should refer to GN Docket No. 13-86.**

Comments may be filed using (1) the Commission's Electronic Comment Filing System (ECFS), (2) the Federal Government's eRulemaking Portal, or (3) by filing paper copies. Comments can be filed through the Commission's ECFS filing interface located at the following Internet address: <http://www.fcc.gov/cgb/ecfs/>. Generally, only one copy of an electronic submission must be filed. In completing the transmittal screen, commenters should include their full name, U.S. Postal Service mailing address, and the applicable docket or rulemaking number, in this case GN Docket No. 13-86. Parties who choose to file by paper must file an original and two copies of each filing.

For paper copies, filings can be sent by hand or messenger delivery, by commercial overnight courier, or by first-class or overnight U.S. Postal Service mail (although we continue to experience delays in receiving U.S. Postal Service mail). All filings must be addressed to the Commission's Secretary, Office of the Secretary, Federal Communications Commission.

- All hand-delivered or messenger-delivered paper filings for the Commission's Secretary must be delivered to FCC Headquarters at 445 12th St., SW, Room TW-A325, Washington, DC 20554. The filing hours are 8:00 a.m. to 7:00 p.m. All hand deliveries must be held together with rubber bands or fasteners. Any envelopes must be disposed of before entering the building.
- Commercial overnight mail (other than U.S. Postal Service Express Mail and Priority Mail) must be sent to 9300 East Hampton Drive, Capitol Heights, MD 20743.
- U.S. Postal Service first-class mail, Express Mail, and Priority Mail should be addressed to 445 12th Street, SW, Washington, DC 20554.

People with Disabilities: to request materials in accessible formats for people with disabilities (Braille, large print, electronic files, audio format), send an e-mail to fcc504@fcc.gov or call the Consumer and Governmental Affairs Bureau at (202) 418-0530, (202) 418-0432 (TTY).

This matter shall be treated as a “permit-but-disclose” proceeding in accordance with the Commission’s *ex parte* rules.¹ Persons making oral *ex parte* presentations are reminded that memoranda summarizing the presentations must contain summaries of the substance of the presentations and not merely a listing of the subjects discussed. More than a one- or two-sentence description of the views and arguments presented generally is required.² Other rules pertaining to oral and written *ex parte* presentations in permit-but-disclose proceedings are set forth in Section 1.1206(b) of the Commission’s rules.³

For further information about this Public Notice, please contact Eloise Gore, Associate Bureau Chief, Enforcement Bureau, at (202) 418-1066, or Jacob Lewis, Associate General Counsel, Office of the General Counsel, at (202) 418-1767.

Please direct press inquiries to Mark Wigfield at (202) 418-0253.

By the Chief, Enforcement Bureau and the General Counsel.

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¹ See 47 C.F.R. §§ 1.1200, 1.1206.

² See 47 C.F.R. § 1.1206(b).

³ *Id.*