

September 21, 2006

Marlene H. Dortch
Secretary
Federal Communications Commission
445 12th Street, S.W.
Washington, D.C. 20554

Re: Court Remand of Section III.B of the Commission's March 2006
Omnibus Order Resolving Numerous Broadcast Indecency Complaints

Dear Ms. Dortch:

We are writing today on behalf of The Creative Coalition in response to the Federal Communications Commission's request for comment concerning recent indecency decisions by the Commission. The Creative Coalition strongly objects to the Commission's attempt to overturn longstanding regulatory practice by subjecting protected speech to potentially crippling fines. The Commission's proposed treatment of fleeting expletives is unwise, unwarranted, and likely to chill vital free expression.

The Creative Coalition is a national non-profit organization representing the interests of artists and performers on issues of importance to America's creative community. We are focused on promoting arts education, enhancing public funding for the arts, and protecting of our First Amendment liberties. We are particularly concerned that the Commission's recent efforts with the regard to "broadcast indecency" threaten the creative freedom that is at the core of America's vibrant artistic community.

The indecency analysis offered by the Commission in Paragraphs 100 through 145 of the Notices of Apparent Liability and Memorandum Opinion and Order adopted on February 21, 2006 (FCC 06-17) is unwise. Under the Commission's new order, the FCC undoes thirty years of regulatory practice regarding definitions of what is and is not profane. Yet here, at the beginning of a proposed new regulatory regime, the logic is already convoluted, and that reasoning is sure to become only more arbitrary as the Commission confronts new programs. One need look only at paragraphs 126 and 127 for an example of where this path will take the Commission. It simply substitutes the opinions of regulators for the opinions of parents, without any real foundation in legislation or logic.

This contorted reasoning is wholly unnecessary. These decisions should be left where they belong: with individuals and with parents. Broadcasters can and do provide viewers with information about program content. Parents may use that information to monitor what programming their children watch, or they may employ

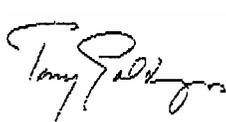
technological means to limit the programs to which their children have access. By empowering parents to make these decisions, we can both protect children and the First Amendment.

The proposed order certainly will have an impact on protected speech. While scripted series clearly can be addressed through methods such as television ratings and the use of blocking technology, we recognize that there are distinct issues arising from live broadcasts. We do not believe, however, that the rare instances cited by the Commission and the complete lack of harm shown justify such an expansion of the government's intrusion into broadcast media. While the live broadcast examples cited by the Commission may be regrettable, they are tame when compared to the language an individual confronts on virtually any street in the country. Our broadcast media should do no more and no less than reflect our society back to us. Despite the lack of any showing of harm, the Commission proposes a regulatory regime that will chill the broadcast of live events for fear of steep fines.

The artists and performers who belong to The Creative Coalition stand strongly against government efforts to regulate protected First Amendment speech. For thirty years, the Commission determined not to take action against fleeting expletives. We strongly encourage the Commission to take this remand opportunity to reaffirm that longstanding commitment to free expression.

Thank you for this opportunity to voice our concerns.

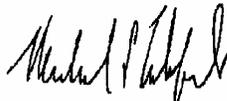
Sincerely,



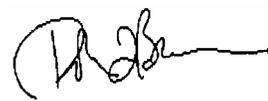
Tony Goldwyn
Co-President



Joe Pantoliano
Co-President



Michael Frankfurt
Chairman



Robin Bronk
Executive Director